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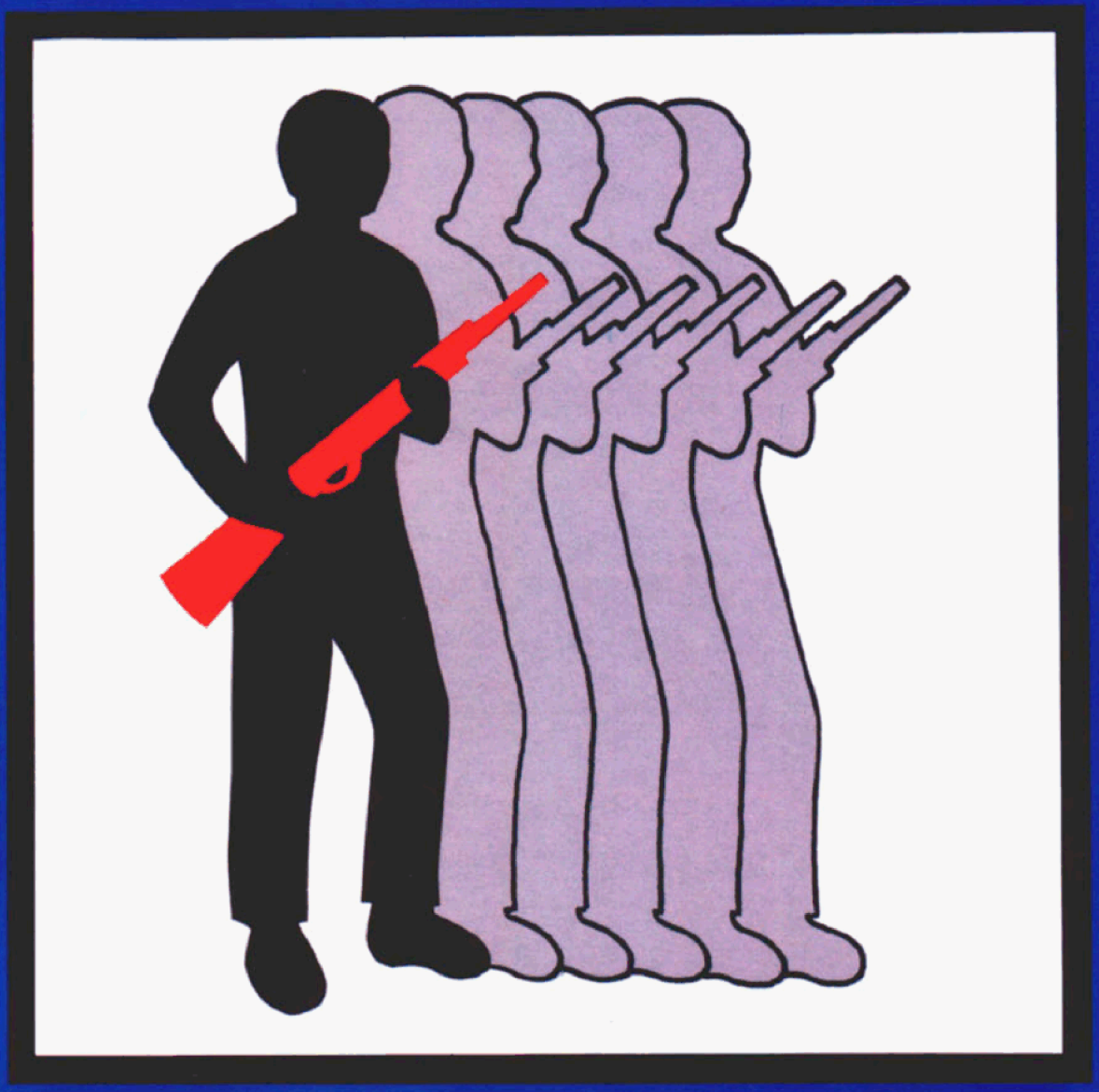
ASSASSIN?



Shooting Down the JFK Conspiracy Theory

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THE FASTEST GROWING CHURCH IN THE WORLD

by Brother Keith E. L'Hommedieu, D.D.

It's quite safe to say that of all the organized religious sects on the current scene, one church in particular stands above all in its unique approach to religion. The Universal Life Church is the only organized church in the world with no traditional religious doctrine. In the words of Kirby J. Hensley, founder, "The ULC only believes in what is right, and that all people have the right to determine what beliefs are right for them, as long as they do not interfere with the rights of others."

Reverend Hensley is the leader of the worldwide Universal Life Church with a membership now exceeding 7 million ordained ministers of all religious beliefs. Reverend Hensley started the church in his garage by ordaining ministers by mail. During the 1960's, he traveled all across the country appearing at college rallies held in his honor where he would perform mass ordinations of thousands of people at a time. These new ministers were then exempt from being inducted into the armed forces during the undeclared Vietnam war.

In 1966 Reverend Hensley was fighting the establishment on another front. The IRS tried to claim the ULC wasn't a legal church and proceeded to impound the ten thousand dollars in the church bank account. The feisty Hensley filed suit against the IRS in federal district court for return of the funds and to permanently establish the ULC as a legal tax exempt entity. On March 1, 1974 Judge James F. Battin ruled against the IRS in his decision which stated, "Neither this court or any branch of this government will consider the merits or fallacies of a religion. Nor will the court praise or condemn a religion. Were the court to do so, it would impinge upon the guarantees of the First Amendment." The judge then ordered the IRS to return the impounded money and to grant the Universal Life Church its tax exempt status.

Reverend Hensley has stated that he believes a church is people and not just a fancy building. He also believes in total freedom and equality for all people. The ULC will ordain anyone without regard to religious beliefs, race, nationality, sex or age.

The ULC's success formula is both effective and unquestionably legal. After a person has become an ordained minister, he or she can join with two other people and form their own Universal Life Church. These three people then make up the Board of Directors consisting of a Pastor, a Secretary and a Treasurer. The ULC will then grant the group the use of its legal church charter complete with both federal and state tax exempt numbers. The newly formed church may then open a bank account in the church's name. Any member of the church can legally donate up to 50% of his or her outside income to the church and take a corresponding tax deduction. The church in turn can pay the complete housing cost of its minister including rent or mortgage payment, insurance, taxes, furnishings and repairs. The church can also provide the minister with full use of an automobile as well as pay for travel and educational expenses. None of these expenses are reported as income to the IRS. Recently a whole town in Hardenburg, New York became Universal Life ministers and turned their homes into religious retreats and monasteries thereby relieving themselves of property taxes, at least until the state tries to figure out what to do.

Brother L'Hommedieu is Chairman of the Board of Trustees of the Sacerdotal Order of the Universal Life and serves on the Board of Directors of the International Universal Life Church, Inc.

Churches enjoy certain other tax benefits over the common man on the street. For instance, a church can legally buy and sell real estate or stocks and bonds completely tax free. It can receive tax free income from bank deposits or mortgages. Many churches own large publishing, recording, or other related businesses like hospitals, clinics and schools without paying any income tax.

A church can sponsor any kind of fund raising event such as a concert, play or even bingo. Churches are also exempt from paying inheritance taxes. When the pastor of the church dies, the Board of Directors simply appoints a new pastor and the church goes on.

Reverend Hensley has stated that he personally doesn't believe in the tax exempt status of churches. However, if the government is going to give a free ride to Billy Graham and the Pope, then why not let everybody participate in these blessings. Furthermore, he backs his words up by offering to defend in court the tax exempt status of his congregations.

Since the church was founded in 1962, it has attracted members who are movie and TV personalities, businessmen, government officials, lawyers, and doctors as well as all types of regular working people. During the last 15 years the Universal Life church has blossomed into a full blown grass roots populace movement. Reverend Hensley is ordaining ten thousand new ministers a week and predicts that the church will have over 20,000,000 members by the early 1980's. In addition, requests for interviews and TV appearances continue to pour in.

Anyone who is a member of the ULC will tell you that the ULC is destined to change the world. By unifying mankind into a brotherhood of freedom orientated individuals, each respecting the other's right to live life as they see fit, the Universal Life Church hopes to put an end to all wars. Reverend Hensley admits that this is a pretty monumental task to accomplish, but he also points out that he is already well on the way to reaching his goal.

Rev. Hensley invites all those interested in becoming an ordained minister and receiving complete information and Minister's Credentials, to send a 10^{00} tax deductible donation to the Universal Life Church, P.O. Box 669, Dept. 119, Aptos, CA 95003.

reason

A forum for analysis and commentary, with an emphasis on individual liberty.

May 1979/Vol. 11, No. 1

FEATURES

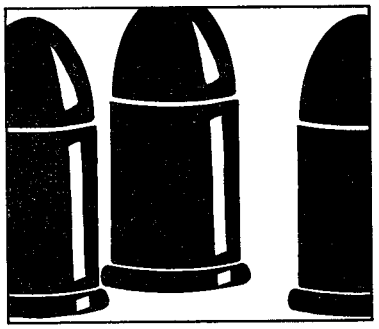
SHOOTING DOWN THE CONSPIRACY THEORY
Was the JFK assassination the work of one man acting alone? The Warren Commission made a lot of mistakes, but the alternative conspiracy theories are full of holes. The House Committee may be making another "rush to judgment."
By William Marina 18

ENVIRONMENTAL ACTIVISTS CAPTURE WASHINGTON
Jimmy Carter promised to out-Nader Nader. And he's doing it, by packing Washington with environmental utopians who care not a whit for what others want.
By H. Peter Metzger 25

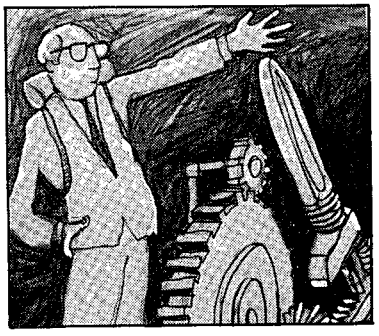
SURVIVING THE BLACKBOARD JUNGLE
There's a war raging in the public schools, and there's only one weapon available to teachers.
By Theresa Hale De Soubiese 30

BOOM TIMES IN CASUISTRY 101
Or why future government officials might be found boning up on sophistic ethics.
By Peter Fasolino 33

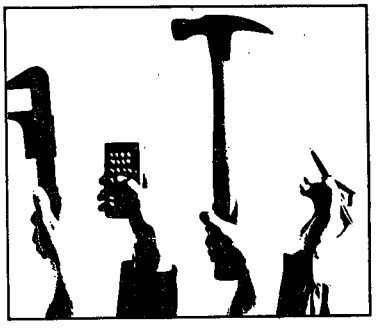
RIGHT TO WORK
Laws that prohibit certain employer-employee agreements seem inconsistent with political liberty—until we get beyond appearances.
By Thomas R. Haggard 34



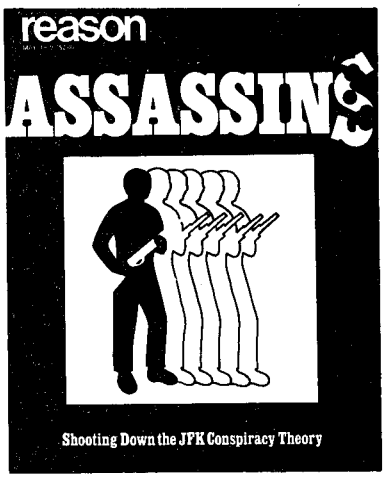
Magic bullet? 18



De-activating growth 25



Workers' rights 34



Cover by Nanette Boyer

DEPARTMENTS

EDITORIAL/The "National Service" Menace 6
VIEWPOINT/The Specter of Credit Controls 38
TAXES/Klee vs. the IRS 39
CONTENTS OF VOLUME TEN 49

EDITOR'S NOTES 4
LETTERS 7
BRICKBATS 10
TRENDS 11
BOOKS 40
MOVIES 44
RUDEBARBS 48
CLASSIFIEDS 50

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editor's notes

• **NOTORIETY.** The February 13 issue of *Esquire* devoted several feature articles to the neo-conservative movement, with Irving Kristol dominating the front cover. The articles are not very enlightening for anyone generally familiar with current intellectual trends (though the readers of *Esquire* may like this carnival-style treatment of ideas and intellects).

One thing we must note in passing is that in the magazine's "Neoconservative Establishment Chart" a place was made for two extremes that supposedly flank the neoconservative middle on either side, namely, "The New Right" and "The New Left." Somehow, by "new right" *Esquire* apparently meant the libertarian intellectual community. Accordingly, we found ourselves (Poole, Machan, Klausner) listed, along with REASON contributors such as James Davidson, Joe Cobb, Yale Brozen, Murray Rothbard, David Friedman, Robert Nozick, Thomas Szasz, Ed Crane, Roy Childs, and Charles Koch. The chart also listed as "Libertarian Elders" Ayn Rand, Milton Friedman, and F. A. Hayek. Somehow, poor William F. Buckley, Jr., was dropped into the middle of this gaggle of infidels, as "The Last Tory."

• **AWARD.** Speaking of Hayek, the good professor has just been awarded a $1,000 prize for distinguished scholarship in law and economics. The award is given annually by the University of Miami's Law and Economics Center, headed by contributing editor Henry G. Manne. It was presented to Professor Hayek at a meeting in Miami on February 15. Now affiliated with the University of Freiburg, Austria, Hayek held a chair at the University of Chicago for 12 years and has also taught at the London School of Economics. He received the Nobel Prize in Economics in 1974 and is presently completing the third volume of his *Law, Legislation and Liberty.* He was the founder and president for 12 years of the Mont Pelerin Society.

• **IN PRINT.** Readers may be interested to learn of a new version of an old friend now back in print. R. W. Grant's now-classic poem, "Tom Smith and His Incredible Bread Machine," originally included in Grant's 1966 volume *The Incredible Bread Machine* (which, in turn, was the inspiration for World Research, Inc.'s book and movie of the same name), is now available by itself in a handsome, illustrated hardcover volume. It's available at $5.95 from Quandary House, Box 773, Manhattan Beach, CA 90266. Tell them REASON sent you.

• **INTERNSHIPS.** The Reason Foundation will have available one or more summer internships for qualified students, preferably students engaged in journalism. If you are such a student, and would like to learn first-hand about the editorial, circulation, advertising, and promotional aspects of putting out a variety of publications, please send us a letter outlining your qualifications and explaining why you'd like to spend from 4 to 12 weeks (your choice) at the Reason Foundation in Santa Barbara this summer. Internships carry no stipend but will provide much valuable learning experience in an intellectually stimulating environment.

• **BOOKSTORES, NEWSSTANDS.** People often ask why REASON is not available in more retail locations. We have had neither the time nor the personnel, to date, to set up a large-scale distribution program. One of the projects we are now considering, however, is doing just that. And you may be able to assist us. If you have a favorite bookstore or newsstand that doesn't carry REASON, why not show the proprietor a few copies and assess his interest? If he is interested, let us know and we'll get in touch with him. Thanks very much.

• **POSTAL BLUES.** The General Accounting Office has published some amazing figures on the government's postal service. From 1970 to 1977 the number of postal employees declined 11.6 percent. In this same seven-year period total salary and benefit payments went up 100.6 percent—meaning the *average* postal worker gained a 127.3 percent increase in pay in just seven years. Think about that the next time you lick a 15 cent stamp and hear the line about a postal monopoly being necessary to keep prices low and prevent consumer rip-offs.

• **ACKNOWLEDGEMENT.** The cover illustration on last month's issue—showing an orbiting solar power satellite under construction—was used with permission of the Boeing Company.

—R. P.

With your help, the spirit of peaceful enterprise can reach an unprecedented future.

Movement into space has come to a crossroads. What we do now may form the setting for space developments in subsequent decades and determine who will realize benefits from the frontier.

Will space become a free commercial arena for productive uses of new technology? Or will rivalries among superpowers limit freedom for entrepreneurs?

The Sabre Foundation has for ten years supported initiatives to encourage free-market trends. In the decade since the U.S. landing on the moon, Sabre officials have been monitoring research that now suggests the likelihood of a new large-scale move into space, because of great commercial opportunities that wait there.

In 1976, an initiative was launched under the guidance of Sabre's World Projects Division to create a durable international basis for development of space resources. The key to the concept: establishment of a new World Space Freeport. Taking the precedents of Hong Kong and Singapore to their logical conclusion, the freeport for space would offer an environment of unparalleled attractiveness to investors.

By providing investors with complete exemption from taxation and tariffs, a 200 square mile freeport could encourage investment and generate millions of dollars in lease rentals per square mile each year. A portion of these revenues would be used to fund practical space efforts to benefit users from all countries, especially the developing nations.

The Freeport Project has created an unprecedented alignment of support for its goals from individuals, organizations and nations. Through its World Space Council, space scientists and officials from eighteen countries have joined to guide investment of freeport income into activities that will ensure a peaceful, international presence in space.

A major goal is to reduce cost barriers for users seeking to conduct productive activities in space, through creation of a freeport-based partnership between commercial enterprises and the developing world. Space already supports a multi-billion dollar satellite communications industry and promises to become the site of new industrial processes requiring the presence of zero gravity, a hard vacuum, or abundant energy. Products from these processes have the potential to revolutionize existing patterns of electronics, pharmaceutical, metallurgical and energy-generation activities.

To help realize this promise, notable space pioneers and free-market experts have joined the Freeport Project. Supporters include Robert Heinlein, Arthur C. Clarke, Krafft Ehricke, Michael van Notten and Robert Poole, Jr. Among the many organizations contributing services, a major New York law firm has been invaluable in the preparation of freeport enabling legislation.

A dozen prospective host nations have responded positively to the freeport initiatives to date. Because of their interest, the foundation's financial base must be expanded to maintain momentum. The Space Freeport project has need for support that will allow continued independence from political and corporate contributions with attached conditions.

You can be instrumental in the opening of our next great frontier. With your support, the World Space Freeport can encourage development of opportunities for non-governmental users and lay a peaceful foundation for human freedom in space.

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The "National Service" Menace

editorial

With breathtaking speed, a campaign to reestablish conscription has been cranked up and set into motion. Its lines of attack are twofold. From conservatives come cries of alarm that the volunteer military is a failure, threatening America's security. From liberals come new calls for "universal service" by American youth.

These two themes are united in a "Youth Services" bill introduced in the House by liberal Republican Pete McCloskey (with three Republican and seven Democratic cosponsors). It would require all 18-year-olds (male and female) to choose among various forms of military or civilian service, ranging from six months to two years. The bill is being considered by both the Armed Services and Education and Labor committees of both houses of Congress.

The military argument has been percolating for many months. Although some military leaders have reported failure to meet some recruiting goals, top officials from Defense Secretary Brown on down concede that the volunteer system is "working" under present peacetime conditions. But a Pentagon study released in December complains that in wartime the lack of a functioning Selective Service system would prevent rapid mobilization. Consequently, the Carter administration is pushing hard for either a national data bank of all 18- to 26-year-olds, compiled from IRS and Social Security records, or a resumption of compulsory registration of all 18-year-olds.

But that's not enough for hawks like Senators John Stennis and Sam Nunn. Calling the volunteer military "the weakest link in the vital chain of our national security," Stennis in February urged that it be scrapped and replaced with full-scale conscription. "The absence of a machinery for registration and selection. . . means that we have no means for mobilizing rapidly the millions of persons we would need in the event of a wide-scale war," he said. Moreover, the volunteer system has failed to attract recruits in the numbers and quality needed, he charged.

Before considering the broader implications of conscription, let's deal with these technical military points. To begin with, today's volunteer system is providing a higher quality of manpower than did the draft. What may be bothering Stennis, Nunn, and other southern conservatives is the changes in composition of that force. Participation by blacks has nearly doubled over the past decade, and today's black recruits are better educated than their white counterparts. Further, women now make up over five percent of all military personnel, compared with a mere one percent a decade ago.

There *is* a potential shortage of 18- to 26-year-old *males* looming ahead, because of the declining birth rates of the last 15 years. But studies by both the Rand Corporation and the Brookings Institution have found that just by opening presently restricted noncombat jobs to women, the military could meet *one-third* of its total personnel needs with no decrease in effectiveness. That's more than enough to cover the 25 percent male shortfall projected for the 1990s.

As for rapid mobilization, major strengthening of the Reserves and National Guard could accomplish this goal more effectively than rounding up hordes of untrained youths. But any such expansion should be undertaken with great caution, paying heed to the dangers of an enlarged military machine. The Selective Service mechanism proved an all-too-convenient way for Lyndon Johnson to maneuver the United States into an undeclared war in Asia. Do we really want to give Jimmy Carter the means—even without conscription or registration—to provide American forces for "widescale wars" around the world?

Far more dangerous than the military argument, however, is the rhetoric of those advocating universal service. The Committee for the Study of National Service, in its 143-page report released in February, said that "the nation's social, economic, educational, environmental, and military needs, *including the need of our society to regain a sense of service*, together make a case for moving toward universal service for American youth" (emphasis added).

California's Jerry Brown, in response to a question on the draft from a Georgetown University student, had this to say:

> We really do have an obligation to our country. The concept of service—not to the "me" generation or to the "now" generation—but service to the country and the future, is essential. Now we serve the country not just by marching around with a rifle, but by bringing hope back to the cities, by comforting the sick, by renewing the forests and the rivers, and by bringing friendship to other countries.

And a November "Sound Off" question on mandatory universal service in *Nation's Business*, the official publication of the US Chamber of Commerce, resulted in "almost universal acclaim" for the idea, based on reader responses. One wrote that, "Some form of service to our country should be an obligation of all who benefit from living here. Universal service would be an equitable way of exacting that obligation—a kind of service tax." Added another, "Universal service would restore the sense of duty all of us owe this free country."

That views of this sort can be readily accepted must give us pause, amidst all the rejoicing about America's new "antigovernment" mood. Have we forgotten so soon the arguments against conscription that were raised so eloquently barely a decade ago? Namely, that the rights to life and liberty are *inalienable*. As Senator Mark Hatfield wrote in 1967, "Personal liberty is not a privilege. It is not a concession granted by government that must be paid for by military service." Nor, we must add, by civilian service.

To compel men and women to comfort the sick, restore the forests, or repair the cities is *forced labor*, no matter how worthy the goal. It matters not whether the period of one's life so exacted is six years or six months or six weeks, or whether the pay is the $288 a month paid to US Army recruits or the $3 a month paid Soviet army conscripts. The principle is the same: involuntary servitude.

Here is an issue that will identify the fair-weather friends of liberty. Conservatives like to think of themselves as advocates of freedom. Where will the American Conservative Union stand on universal service? Liberals like to be seen as champions of civil liberties. Where will the ACLU stand?

There can be no compromise on so fundamental an issue as the right to life and liberty. As one of America's foremost opponents of conscription and involuntary servitude, Daniel Webster, put it in 1814: "The question is nothing less than whether the most essential rights of personal liberty shall be surrendered and despotism embraced in its worst form."

Robert Poole, Jr.

letters

Goodbye, ICC

As one who has worked in the transportation industry, let me praise the Semmens article on trucking [March] as excellent in every way. Because of articles like this, it increasingly appears that ICC regulation may be on the way out.

William D. Burt
Santa Barbara, CA

Good Writing, Art

Outstanding, great cover on the education issue [March], and the article was stunning. The author [Samuel Blumenfeld] writes with a personal energy as great as Robert Pirsig's in *Zen and the Art of Motorcycle Maintenance*. Very good stuff!

Tim Condon
Santa Rosa, CA

Ancient Libertarianism

I do not entirely understand the point of Philip Dematteis's apologia for Plato [February]. Was Plato a libertarian, something close to one, or not one at all? Dematteis seems to admit that the first is not true, but edges around the third possibility in favor of the second. This shows more of Dematteis' regard for Plato than of his regard for libertarianism.

Dematteis makes a great deal out of Plato's enunciation of the "division of labor," going so far as to cite it as a libertarian principle of sorts. This is very odd, inasmuch as the division of labor is a very ancient and very natural environmental selection process having little or nothing to do with political theory. The division of labor is most highly exemplified in the life of an ant colony. . . or in the life of a totalitarian society, which is no less than what Plato's republic amounts to (Dematteis admits that the philosopher-kings would exercise the power of regimentation). How this equates to social freedom is not evident. In fact, libertarians should owe more to Marx than Dematteis would have us do. In contrast to Plato, Marx recognized that it is human nature *not* to be regimented into an occupation from birth —that the essence of freedom is to be able to change one's station in society (or occupy more than one station) as one wills. This is quite contrary to Plato's ideas. . . .

I sometimes wonder at the tendency for libertarians to lock themselves into Western philosophy. For instance, if one were to look for philosophical antecedents of libertarianism, one might be better advised to go back about 200 years *before* Plato to consult the writings of Lao Tzu, as embodied in his Tao Te Ching. Here are a few excerpts from a recent translation:

Can you love the people and govern the state and do so without interference?

If one undertakes the task of governing the kingdom and engages in governing it,
I see that he cannot lead it anywhere.
A kingdom is a spiritual vessel and should not be manipulated.
Manipulating it leads to failure.
To grasp it is to miss it.

The more restrictions and limitations there are,
The more impoverished men will be.
The more arms men possess,
The more disordered the country will be.
The more scheming and deceitful men are,
The more strange things will occur.
The more rules and precepts are enforced,
The more bandits and crooks will be produced.

When men are deprived of food,
It is because their kings tax them too heavily.
Therefore, they are deprived of food.
When men are hard to govern,
It is because their kings interfere with their lives.
Therefore, they are hard to govern.

. . . The keystone of Lao Tzu's teaching was the concept of *wu-wei*, or "non-interference." For him, non-interference was a fundamental way of relating to *all* of life,

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as well as a guiding principle in social matters. If this is not a profoundly libertarian view, then we might as well close up shop and go home. Libertarian ideas have been around for millenia. Our problem is (and always has been) to make them work in society at large.

Mike Dunn
Federal Way, WA

Quality of Life

May I take the liberty of questioning William Loggins' conclusions [Letters, March]? I don't wish to argue for "happiness" as the standard of ethics; but I find his use of "man's life qua man" equally unacceptable. What does this concept mean? Not physical survival; Rand is prepared to countenance suicide in certain admittedly desperate conditions. Not survival as a reasoning being; she envisions John Galt contemplating suicide when he would still have been capable of living, thinking, and acting after Dagny Taggart's death. Perhaps survival as a valuing and choosing being? But by what standard, then, does one measure this? If length of years, then, given that one's reason and emotional integrity are not in question, wouldn't it be necessary to maximize longevity, at whatever other cost in short-run pleasure or convenience might be needed? Perhaps Loggins is actually doing this, and never misses a meal or a night's sleep, or indulges in unhealthy or dangerous activities. I doubt that many other people would find this concept of ethics tempting; it would demand an asceticism unequalled since the Puritan era.

If, though, we are to admit considerations of quality, and to seek the highest lifetime sum of quality, then "man's life qua man" appears to me to be not a precisely determinate measure of quality, but only a formal schema of what such a measure might be. If Loggins means to claim that a particular theory exhaustively summarizes the principles of human conduct, I think he is either living an impoverished life, or is in danger of impoverishing his life to suit his ideas; my own life is quite capable of eluding even my own calculations. I am compelled to recognize the complexity, subtlety, uncertainty, and multiplicity of human character. While such ideas as "personal destiny," "true will," or "man's life qua man" may be suggestive formally, they are not standards. They are recognitions that some standard is inescapably necessary, which do not prevent recognition that no standard is sufficient.

The real need, to my mind, is for contemplation of the variety of human standards, and of the implications of adherence to different standards. Here is where art is valuable: it can provide a range of vision which could not be equalled by many years of simply living. If Loggins will contemplate the great range of human archetypes embodied in literature, in myth, or for that matter in such contemplative instruments as a Tarot deck (I am not referring to vulgar fortune-telling, but to its use in making subconscious awareness conscious through divination or pure contemplation), he may have a greater sense of the complexities and of the uncertainties facing anyone who wishes to be ethical without dogmatism.

William H. Stoddard
Chula Vista, CA

Standard Warning

Allow me to congratulate you for the general excellence of the February number. Especially for the magnificent piece by Anne Wortham. I have not recently read anything as moving and perceptive. While I agree with your editorial as a whole, watch out for the words "standards" and "insurance industry."

As an engineer, I prepared or helped prepare thousands of standards during my life. It is not too much to say—they are one of the most prolific means used by government to exert unfair power. To describe but one:

In the years 1925-28 I worked for a small manufacturer of gas ranges in Middletown, Penna. . . . It became my duty to see that our line of stoves met the "standards" adopted by the American Gas Association and by cities and other governmental units. This was done and we were about to receive our A.G.A. "approval." However, an innocuous "joker" had been written at the end of the specification. I cannot remember the exact wording; however, in essence it said that a young man would visit our plant. If he disapproved of anything in our procedure or facilities, we wouldn't get our "approval." This took place. Large factors in the gas stove industry resented the presence of "upstarts" like us and were trying to eliminate us—especially because, due to better management and other factors, we were able to sell stoves of equal quality for half what they got. So the A.G.A. "standard" was simply a tool to pry us out of the industry. My boss threatened to place the matter before the Federal Trade Commission, and this was enough to get us our "approval" and "seal."

Now as to the insurance industry. From personal experience, I would say that this

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contains the largest number of unhung rascals outside of government itself. One of the most fertile fields in which you could occupy your investigative reporters for years would be to trace the connection between I.T.T., the Hartford Insurance Co., the Hartford Steam Boiler Inspectors, the Boiler Code Committee of the American Society of Mechanical Engineers, and the Plate Steel Subcommittee of the American Society for Testing Materials. In brief, I think you will find there is very tight control of the power-generation industry worldwide through the interlocking of "standards" issued by these bodies and enforced by granting or withholding of "insurance." And also most lucrative.

John E. Erb
Northville, NY

Air Bag Debate

Referring to the air bag situation as a safety fraud [January] is like referring to REASON as subversive propaganda. It just ain't so. The "fraud" as you describe it makes it seem that NHTSA is profiting from the venture. Actually, the driving public will profit in the long run with fewer deaths, injuries and insurance and medical costs.

Certainly air bags are not perfect, but they provide protection for six out of every seven motorists that choose not to utilize available seat belts. The expense and bureaucracy regarding passive restraints would be unnecessary if the motoring public would buckle up.

I recommend that your staff and readers view a 30-minute 16mm film produced by the Insurance Institute for Highway Safety, titled "Crashes That Need Not Kill." Its research, illustrations and test crash results are dramatic. It's available on a free-loan basis from Association Films, Inc., 5797 New Peachtree Rd., Atlanta, GA 30340.

Ray Ochs
Traffic Safety Institute
Eastern Kentucky U.
Richmond, KY

Mr. Poole replies: There is no question that air bags that work properly can save lives—in front-impact crashes. The "fraud" comes when the government tries to give the impression that air bags are as good as or better than lap/shoulder belts —which they are *not*. Air bags are virtually worthless protection in the event of side or rear-end collisions or rollovers, situations in which three-point belts can be quite effective, as they are in frontal collisions. NHTSA's whole case, which Professor Ochs apparently accepts, rests on the idea that since relatively few people bother to buckle up, it is somehow "necessary" for government to impose air bags on them. A mandatory program of this sort may well reduce the collective total of death and injury claims facing the insurance industry, but at what price in individual liberty?—**R. P.**

Why Pay As You Go?

Thank you for Mr. Warren Shore's article [January] on the Social Security heist.

One point of interest concerns the original intent of the architects of Social Security with regard to the establishment of an actuarially sound trust fund. In the late 1930s there was a controversy around this point and it was noted that the establishment of a fund with substantial assets would entail extreme governmental intervention in the economy since pension funds involve the ownership of corporate securities. Presumably they preferred state capitalism to out-and-out socialism since, as one bureaucrat-to-be asserted at the time, "The assets of a government are the taxable reserves or incomes of the country" (*The Annals*, March 1939). I believe that the decision to use a modified "pay-as-you-go" method was made after the establishment of the plan, in time to provide large benefits to individuals retiring in the 1940s.

I would disagree with the contention that the Social Security bureaucrats use Orwellian double-think. For example, J. Douglas Brown of Princeton University has been involved in the administration of Social Security since the 1930s. Although a review of Professor Brown's *An American Philosophy of Social Security* will confirm and amplify some of Shore's more caustic remarks, it will not reveal double-think . . . only pure, old fashioned stupidity.

Mitchell Langbert
New York, NY

Rationality Wins

This is in response to Douglas Schell's letter [March]. Mr. Schell seems to see two possible objections to libertarian theory: (1) that the "threat of wrongful acts" would not be reacted against by legitimate force in a libertarian society, and (2) that cultural attacks on sensitivity and rationality (such as pornography and TV violence) will erode the rational behavior of individuals upon which a libertarian society depends.

To deal with the first objection, libertarian theory does, of course, provide for retaliation against threat of force. A stranger could not stick a shotgun in your face, then later innocently claim that "he never intended to pull the trigger." Nor, as in the classic example, would your neighbor be allowed to build an armed, 100-megaton nuclear warhead in his living room, "just for the hell of it." Any action which could, in reason, *only* be interpreted as leading to damage or destruction to innocent persons could, and would, be retaliated against (in court) in a libertarian society. The important point here is that *each* threat of force case would be adjudicated individually, on its own merits, in its own *context*. No sweeping

(*Continued on p. 47.*)

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brickbats

☐ **Much has been written** of the incredible popularity of the nostalgia craze, but not even the script writers on "Happy Days" could predict that we would be blessed with a return of the Vietnam war. Consequently, when Red China invaded Communist North Vietnam in mid-February, nostalgia buffs succumbed to frenzy. Word has it that not even a re-release of "Barbarella" could have touched Miss Jane Fonda so dramatically, for she is now buzzing, presumably anxious to tour America for rallies, speeches, and the oft-heard war cry, "HO-HO-HO CHI MINH, THE N.L.F. IS GONNA WIN!" The precise role of US imperialism in this latest people's struggle has not yet been identified, but the comradicide has only just begun. Give the gurus time.

☐ **US foreign policy** has scored another remarkable achievement in the Near East. In rapid succession, the kingdom of Iran has seen three rival governments play musical thrones, and the United States has miraculously managed to become bitterly hated by all three for appearing to take sides with one of the others. The administration has responded to this jumbo accomplishment by winding up James Schlesinger, the well-known energy fascist and all-around dangerous person, to threaten US military intervention in the Persian Gulf should our future "stabilizing" policies prove as diplomatically successful as our past ones. Citing "vital interests" (or was it "vile interests"?) in the oil-rich lands, the administration has made it clear that, despite doling out $12 billion per annum to the Department of Energy geniuses to "solve" our energy crisis, the government's best solution is to send the Marines into those countries that do not have a Department of Energy. This oil-boat diplomacy was dissected with characteristic acumen by the analytical Sen. Henry Jackson: "We don't have a foreign policy and we're administering it very poorly." (Call the Home, Mrs. Jackson.)

☐ **The Carter Energy Program** also got a nasty jolt from the environmental lobby. It appears that highly insulated, air-tight rooms—the kind that the Washington wizards want to hammer up all over America to conserve our nonrenewables —trap radons, derivatives of the dreaded radium. With this radioactive stuff ricocheting about our neatly sealed, energy-efficient homes and condominiums, our cancer rates will show steep progress. Moreover, we will be sitting ducks for the FDA. . . . imagine the implications of the Delaney Clause when they determine that sitting indoors leads to cancer.

☐ **The "Melting Pot" theory** of America has received some strong challenges lately. To wit: A Mexican-American group in Los Angeles has demanded that the public schools commence teaching US citizenship classes in the Spanish language, while the Equal Employment Opportunity Commission, the federal government's antibias agency, has been found guilty of discrimination against a Hispanic female job-holder.

☐ **It wasn't too long ago** that the wire services carried the following: "Transportation Secretary Brock Adams lauded the Bay Area Rapid Transit System as a cure-all for the nation's dependence on gas-guzzling automobiles." Yet sadly, the key BART line connecting San Francisco and Oakland via a 3.6 mile underwater tube has been inoperative since mid-January when a seven-hour fire touched off poisonous fumes killing one and hospitalizing scores. The ultramodern government transportation "cure-all," it turns out, was constructed with seats that emit a deadly toxin when lit—a fact that the transit technicians were warned about circa 1974, according to UC Berkeley fire safety expert Brady Williamson. The post-disaster response of the guilt-ridden officionados was summed up delicately by the Oakland fire chief: "Plastics are a part of American life."

☐ **Rep. Daniel J. Flood,** the noted Philadelphia statesman and perennial winner of the Snidely Whiplash look-alike contest, was spared the hangman's collar by a whisker in federal court. The able congressional leader was on trial for his most effective governing talents, including bribery and perjury. A mistrial was declared by the judge after 11 jurors failed to subdue juror number 12 in their quest for conviction. The hold-out was a 63-year-old man, and he seemed to possess uncanny abilities to reveal secret testimony related to Representative Flood but *not heard* by the jury. He advanced that he was only "joking" about his strangely accurate revelations, but the ever-cynical press corps did not have to look far to suspect an outbreak of *juris tamperas*—not past the hold-out juror's Christian name: William Cash.

☐ **Representative Flood's colleague,** the Recently Honorable Joshua Eilberg, was not so confident about his legal efforts and copped a plea on felony counts of federal conflict of interest. Mr. Eilberg, who was at least competent enough in his political craft to have Honest Jimmy bounce an overzealous federal prosecutor from his case (remember David Marston?), will now have to suffer the ignominy of checking in with his parole officer before consorting with criminals, politicians, and other undesirables. The ex-Congressperson is sure to miss his Capitol Hill glories even more now than in times past, for the Associated Press reports that, in a major piece of reform legislation, Congress will henceforth have its own Liquor Store right within burping distance of the floor of the House. Cutting out the middleman makes sense in this era of economical government, yet local booze entrepreneurs are livid over this government intrusion into the private sector. Several Capitol Hill franchises are expected to go under.

☐ **Public servants** throughout the land have been demonstrating their post-Prop. 13 anxieties in a variety of ways lately. In New York City, striking school bus drivers engaged in an innovative style of collective bargaining by physically attacking taxis and vans carrying crippled and handicapped children to classes. The city helpers "smashed windows, slashed tires, punctured radiators, and punched drivers." The violence did end abruptly, however, when the threatened taxi and van drivers stayed home quivering rather than deliver the schoolchildren. And when Wayne County employees in a Detroit morgue went on strike they absconded with the ID tags from 50 of their charges. While it was easy to analogize that these frustrated bureaucrats were resorting to the practice of stealing from the dead now that the taxpayers have drawn the line, the absence of the tags created a bona fide identification problem. One wonders how the corpses were distinguished from one another or, for that matter, from the striking government "workers."

—Thomas Winslow Hazlett

trends

Freedom Brings TV Revolution

A modest relaxation of Federal Communications Commission cable TV rules has led to major changes in that industry. And if, as expected, cable is deregulated completely, TV in the future will bear little resemblance to the "vast wasteland" we've become accustomed to.

In 1975 the FCC began relaxing its restrictions on the importation of "distant signals" by cable operators. That same year saw the launch of RCA's Satcom I, the first domestic TV communications satellite. Its low transmission cost made feasible what the FCC's rule change had made legal—bringing programs from a major metropolis to communities all across the country.

A logical result of these two events was the development of the "super station"—a TV station that serves a national market, distributing its programs via satellite to numerous local cable systems. The pioneer super station was Atlanta's WTCG, Channel 17, formerly a lackluster, money-losing local UHF operation. Today its non-network programs—including the Atlanta Hawks and Atlanta Braves games and 2,500 movies—are being seen by viewers in 43 states. And numerous national advertisers pay premium rates to reach them. More recently, Chicago's WGN and New York's WPIX have become super stations, as well.

A parallel development is the growth of pay-cable services. Last year the number of pay-cable subscribers more than doubled, from 1.5 million to 3.1 million households. The pay-cable market consists of diverse segments of the population—opera buffs, sports fans, evangelical Christians, language minorities, etc.—willing to pay for specialized programming. It is only a matter of time until sufficient subscribers—and communications satellite receiving stations—exist to permit development of nationwide special-interest networks. Already the number of satellite ground stations has grown from two in 1975 to about 800 at the end of 1978, with 1,500 projected by the end of this year.

Another way to support special-interest cable TV is advertising. Manhattan already abounds in such programs, among them cable shows aimed at the gay community and at the city's Spanish-, French-, and German-speaking audiences. Advertisers seeking to reach these specialized groups seem delighted at the low rates involved, compared with broadcast TV—as little as $20 for 30 seconds in some cases.

In view of all these developments, it is not surprising to hear FCC chairman Charles Ferris predict the emergence of new TV networks, as he did in Los Angeles in February. (Indeed, the super stations are virtually networks already.) And it is encouraging that Ferris and at least two other commissioners, James Fogarty and Margita White, believe the agency should scrap its cable restrictions altogether. "Cable regulation has got to go," Fogarty told the *Wall Street Journal* last winter. Adds the new head of the FCC's cable bureau, Philip Verveer, "Cable and broadcast TV should compete in the viewer's living room, not the commission's meeting room."

Thus, whether or not Congress enacts a deregulation bill this session, it looks as though cable TV is about to enter the free market. And the results—for viewers—should be impressive.

Profits in Prisons

Virtually everyone agrees that today's prisons are a disaster. Imprisoning a criminal costs the taxpayers a fortune, fails to rehabilitate, ignores the victim, and frequently leads to improving the inmate's criminal skills, from contact with other inmates. About all that can be said for our prisons is that they keep criminals temporarily out of circulation.

That dismal picture is being challenged by a promising experiment now under way in Minnesota, and to a lesser extent in six other states. Going by the name of Free Venture, its basic idea is that inmates ought to engage in productive labor, reimbursing the prison for their care, paying restitution to their victims, and leaving prison with developed work habits and skills.

Free Venture is not the conventional "prison industries" concept—paying inmates 50 cents a day to stamp out license plates. In nearly every state, prison industries are a farce because (1) only token wages are paid, (2) the work is generally make-work unrelated to the marketplace, and (3) inmates are given no responsibility either to develop work habits or to manage money. And most states forbid prison industries from selling goods or services to private industry.

Minnesota's bold experiment at the Lino Lakes Correctional Facility is changing all that. Conceived by executives from private firms (Control Data, Toro Co., and others), the program involves actual profit-making business ventures inside the prison walls. Work for the prison shops is obtained by competitive bidding in the outside marketplace. Among the businesses are a telephone reconditioning shop (subcontracting to Western Electric), a lawnmower and snowmobile components shop (Toro Co.), a computer sys-

"WHAT THE HELL, THE SIXTIES ARE OVER — GIVE IT A TUG!"

tems analysis and programming company (Control Data), and a food service company that provides the prison's food.

Inmates work a regular 40-hour week, under normal industry supervision. Wages average $1.85 an hour, with some inmates earning over $3 an hour. Inmates are charged for room and board on a sliding scale, as their incomes increase. Their wages also go toward family support payments, restitution payments, plus state and federal taxes. Inmates are responsible for their own clothes and are encouraged to open savings accounts to provide for themselves upon release.

Since the program is still experimental, it is not yet clear how successful it will be at saving taxpayers' money, giving inmates marketable skills, and motivating them to go straight. Last year the state government recouped only $100,000 in expenses from the inmates—a small portion of the $3 million a year cost of the Lino Lakes facility. But the shops themselves will be self-sustaining this year, says industry director Thomas F. Grogin. "The bottom line for measuring success here is profitability," he adds.

That is a refreshing change from the prison management philosophy that prevails elsewhere in this country.

Nix on Wage and Price Controls

Wage and price controls place totalitarian power in the hands of the State, cause shortages and surpluses, and are powerless against inflation. Yet polls reveal that a majority of the public still thinks them desirable. Hence, every new piece of evidence against them should be welcomed.

The latest such evidence emerged in February from the National Bureau of Economic Research, a highly respected private organization. NBER researchers Alan S. Blinder and William J. Newton of Princeton analyzed the Nixon controls of 1971-74. They found that during the various phases and freezes, the overall price level dipped only marginally (1.7 percent) below what it would have been without controls. More significantly, once the controls came off, the scramble to recover from their distorting effects led, not merely to making up for this short-term drop, but to a further permanent increase in average prices of about one percent above the trend line. Drawing the obvious conclusion for today, Blinder says, "The data are pretty clear—the Carter controls program should be scrapped. There's not much of a short-run payoff, and in the long run prices end up higher than in the absence of controls."

Two other organizations have weighed in against the Carter controls. The American Bar Association's Economic Resources Controls Committee concluded that the administration lacks the legal authority to deny government contracts to companies that don't comply with the "voluntary" wage-price controls. The plan is hardly voluntary, added the committee, since it depends upon "a fear of government retaliation."

The General Accounting Office issued a statement agreeing with the ABA analysis. In addition, a GAO official told a congressional hearing that applying the contract-denial provision could actually increase costs to taxpayers. That would occur if noncompliant low bidders were passed over in favor of higher-cost firms that were in compliance. In addition, since only the compliance of large firms will be monitored, significant inequities would exist in the treatment of contractors, he said.

Saving the Environment—Privately

For many years advocates of preserving wilderness areas have championed a brute-force solution: have the government confiscate the land and open it to the public. The drawbacks of this approach are several: the land is not really preserved (because it *must* be made accessible to hordes of tourists), and millions of people who will never see or set foot on it are nevertheless taxed to pay for it.

Advocates of national parks and monuments often argue that, despite these drawbacks, the governmental approach is the only way unique environments could be preserved. Fortunately, they are wrong, as the following three examples demonstrate.

Perhaps the best-known nongovernmental preservation organization is the Nature Conservancy. Operating on an annual budget of several million dollars, the Conservancy seeks out unique tracts of land to preserve—either for scenic or for ecological reasons. It then sets out to purchase the land—often taking advantage of its nonprofit status to arrange for a "bargain sale," netting the seller a tax deduction. Although it retains ownership of only about half of its acquisitions, when passing them on it takes great pains to ensure that the recipient is one with "demonstrated stewardship capabilities." The Conservancy is supported by 60,000 individual members (at $10 a year) and 182 corporate members (at $1,000 a year)—including IBM, Ford, and Atlantic Richfield.

Caves are a particular type of unique, scarce natural resource. To preserve such sites—and make them accessible under carefully controlled conditions—some 44 cave owners have formed the nonprofit National Caves Association. Based in McMinnville, Tennessee, the organization sets standards for cave preservation and operation and publishes a nationwide caves directory. Among the well-known members are New Mexico's Carlsbad Caverns and Virginia's Luray Caverns.

Finally, California has recently given birth to yet another form of private conservation: membership wilderness parks. The first, set up in 1971, was the 5,000-acre R-Ranch in Siskiyou County. There are now three parks and seven more in the planning stages. Each member (whose numbers typically are limited to several thousand) purchases an undivided share of ownership, entitling him to make recreational use of the entire property. Because the property is privately owned and access is limited, its environment is far more likely to be preserved than under public ownership. Further, the county government benefits as well, because the land remains on the tax rolls but requires next to nothing in the way of public services.

Private ownership is succeeding in preserving wilderness areas. And it is doing so while preserving the libertarian principle that only those who benefit from a service should pay for it—a sharp contrast to government ownership of natural resources.

Support Grows for Government Limits

The idea of constitutional restraints on federal taxing and spending continues to pick up support. Advocates of the National Taxpayers Union's drive to call a constitutional convention to draft a balance-the-budget amendment were heartened recently by Attorney General Griffin Bell's declaration that Congress has the power to limit such a convention to a single subject. That would discount the argument that such a convention could run wild, raised by liberals such as Sen. Edward Kennedy (see Trends, April). Former senator Sam Ervin, a leading constitutional scholar, has endorsed the convention approach as the only way around Congress's refusal to get serious about balancing the budget.

Apparently the public agrees that an amendment of this type is needed. A February Gallup Poll found that 78 percent—Republicans and Democrats alike—support a balanced-budget amendment. And the two leading items that people think could be cut, to achieve balance, are welfare (54 percent) and defense (29 percent). Despite the failure of the California Assembly to support the measure, balance-the-budget convention resolutions have now emerged from 28 states, just 6 short

of the required 34.

Meanwhile, two constitutional amendments to limit federal spending are picking up supporters in Congress. One is the Crane-McClure amendment, which would limit federal spending to one-third of the average of net national income over the past three years. Had this amendment been in effect in 1977-78, federal spending would have been $22.8 billion less.

Competing with this measure is the one drafted by the National Tax-Limitation Committee and promoted by Milton Friedman. It would limit each year's federal spending increase to no more than the percentage increase in gross national product in the previous year. But if inflation exceeded three percent, the allowable increase would be cut by one-quarter of the excess over three percent—the more inflation, the less spending could increase. Had this amendment been in effect over the 1969-78 decade, federal spending would have dropped from 20.4 percent of GNP to 17.9 percent (instead of rising to 22.6 percent)—and the decade's deficit of $271 billion would have been a net surplus of $22.2 billion.

Support for a spending-limit amendment is widespread, too (though not as great as for a balanced-budget amendment). A nationwide *Los Angeles Times* poll in January found that 65 percent would support a spending-limit amendment, with only 19 percent opposed. Once again, a majority of both parties were in favor, as were black voters (by a 48-to-29 percent margin).

The same poll found that people consider government the number one cause of inflation, by a wide margin—43 percent picked government, compared with only 24 percent for the second choice, labor unions. And two-thirds of all those polled want their taxes cut so strongly that they would accept less government services if it meant a tax cut. The most despised tax in America, the survey found, is Social Security.

An Associated Press survey of members of Congress found that the lawmakers perceive the growing antigovernment mood. Perhaps Rep. George M. O'Brien summed it up best: "The message voters gave me was: 'Get the government off my back and out of my pocket.' "

Deregulate Buses

Almost unnoticed in the skirmishing over impending deregulation of trucks and trains is the call to remove the heavy hand of the Interstate Commerce Commission from bus lines. And—surprisingly—the leading advocates of this move are none other than the industry's big two: Greyhound and Trailways.

In an article in the *New Republic* (Feb. 3), Stephen Chapman explains why the bus companies favor deregulation. Although regulation shields them (like it does the truckers) from competition, it also forces them "to provide service on many sparsely traveled and thus unprofitable routes." Over the past decade, what with rising fuel prices and new competition from subsidized Amtrak, these money-losing routes have become an increasing liability. Chapman also points out that Trailways, distinctly number two, feels it could compete much better against giant Greyhound if it were free to cut prices (à la Freddie Laker in aviation). Greyhound, in turn, can hardly come out *for* regulation when its smaller competitor is willing to take the risks of open competition.

Deregulation of buses will most likely lead to effects similar to those in aviation: price cutting, more passengers, and many new competitors. Although the big two would eliminate service at some points, the vacuum might well be filled by local bus firms, which would face no legal barriers to entry under deregulation. Thus, the present erosion of bus service (1,800 small towns in the past eight years) might actually be reversed if the free market were permitted to operate.

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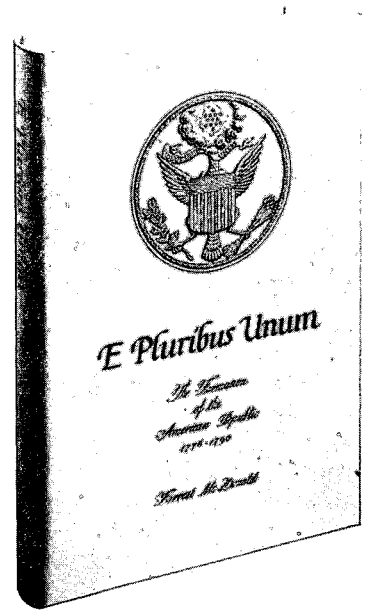

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Politically speaking, if the howls of outrage over cutbacks in Amtrak are to be stilled, a revitalization of bus service may be one of the best ways to do so. Intercity bus lines serve 15,000 communities, 14,000 of which have no other form of commercial transportation. Tax-gobbling Amtrak serves only 500—before the proposed 1979 cutbacks. By spurring competition and opening entry, bus deregulation could ensure low-cost transportation for the millions of Americans who don't fly or drive.

Underground Economies Thriving

Last year Prof. Peter Gutmann of the City University of New York caused quite a stir with his article on the underground economy (see Taxes, REASON, Sept. 1978). Analyzing the much higher rate of growth of cash compared with checking accounts, Gutmann estimated that some $200 billion of economic activity takes place each year unreported—and untaxed.

Economists argued for months over Gutmann's analysis, some contending he was altogether wrong (especially those working for the government). But last winter the IRS released the preliminary findings of its own investigation of the underground economy. While not agreeing with Gutmann's number, the IRS conceded that at least $100 billion does indeed circulate subterraneously—and only one-fourth of that can be attributed to "organized crime."

What accounts for the rest of it? A study by the Institute of Labor and Industrial Relations at the University of Michigan provides some insights. Their study team interviewed 284 families in nine Detroit neighborhoods; team members also lived there as observers for several months. They found that nearly 40 percent of the households patronized "irregular" sources for household maintenance and repairs, and 22 percent used such sources for personal services such as child care and auto repairs. Over one-third of all cement, electrical, and plumbing work was done by unofficial entrepreneurs, as was a majority of all babysitting, lawn mowing, painting, paneling, and carpentry work. Much of the work was done on off-hours by wage earners, supplementing their regular paychecks.

Avoiding taxes, union rules, and government regulations motivates Americans to participate in the underground economy. In Sweden, it's mostly outrageous income tax levels. Average annual working time has dropped 24 percent in Sweden since 1960; absenteeism has climbed by 63 percent. Rather than pay high prices for services like painting and remodeling, Swedes increasingly take unpaid time off and do the work themselves. Barter, too, is on the rise. The disincentive effects of Swedish income taxes are so pronounced that socialist economist Gunnar Myrdal has called for abolishing the progressive income tax, in favor of a "consumption tax"—essentially a sales tax.

In Italy, too, the underground economy is thriving, encompassing between 4 million and 7 million workers. A recent study found that 70 percent of government workers have a second job, many of them underground. Experts place Italy's true output as high as 30 percent more than shown by official figures. The village of Mantua, for example, produces 35 percent of the women's tights sold in Italy—completely "unofficially."

What all of this implies is that once taxation reaches a point where ordinary people consider it a mere exaction, they will seek out means of avoiding it. And since there are a lot more of them than there are bureaucrats, for the most part they will succeed.

Firearms Rights

Defenders of the Second Amendment right to keep and bear arms have won two more battles. In Washington, the Treasury Department has thrown in the towel on its proposal that all new firearms carry a federal serial number. Congress, under heavy public pressure, had already deleted $4.2 million in funding to prevent implementation of the plan. Opponents of the measure considered it the first step toward federal gun registration.

On another front, the American Civil Liberties Union has taken on a case involving the right to bear arms. Richard E. Harbert is challenging a California law that prohibits ex-felons from ever again carrying a firearm. Harbert, who was convicted in 1945 of mailing threatening communications, was pardoned in 1961. Since 1976 he has been attempting to obtain work as a security guard, but the state law forbids him from carrying a gun. The ACLU has filed suit on his behalf in Los Angeles, seeking to have the law overturned.

IRS vs. Private Schools

In the face of widespread public and congressional outcry, the Internal Revenue Service has modified its proposed rules for reviewing the tax-exempt status of private schools. Under the revised procedures, only those schools established or expanded about the time of public school desegregation in their community would be reviewed. Writing in the March issue of the Center for Independent Education's newsletter *Inform*, attorney Davis Keeler makes the following criticisms of these procedures:

- Because education, like religion, is necessarily value-laden, we cannot permit the government to decide what constitutes a "proper" school.
- Racial discrimination cannot be reasonably presumed from the date of a school's founding, due to widespread disaffection with public schools for other reasons.
- Use of the date of founding discriminates against non-Catholic schools, since it is mostly such schools that have been set up in recent years.
- Tax exemption does not constitute government involvement in a Fifth or Fourteenth Amendment sense, unlike government subsidization.
- A previous IRS/Justice Department brief argued against such *prima facie* tests for discrimination as the IRS now proposes to use.
- The IRS provides no definition of the "special circumstances" it will apply in judging schools that fail to meet its 20 percent minority enrollment criterion.
- Assuming racial discrimination based on lack of minority enrollment ignores the fact that many religious denominations tend naturally toward racial homogeneity; it is therefore an interference with religious freedom.

"Attempts to use legal coercion to forbid private racial discrimination, while preserving a free liberal society, are every day in practice proving impossible," concludes Keeler. Such private conduct "is a necessary inconvenience of a government of free men."

Helping the Big Get Bigger

The federal government is giving auto industry giants General Motors and Ford a substantial competitive edge in their battles with Chrysler, American Motors, Toyota, Honda, Nissan, and Volkswagen. So concluded a seven-volume study by Harbridge House, released in December.

That may not be what the feds intended, but it will be the clear result of the new generation of federal safety and fuel economy standards, the consultants found. Because of the added capital expenditures required to comply with the requirements, they "weigh most heavily on the smaller companies and give the larger companies an additional competitive advantage beyond that which they already have." Chrysler, for example, is attempting to raise $7.5 billion to pay for complete product redesign over the next seven

years to comply with stringent fuel economy standards—and is having to sell off overseas operations to raise the money.

Although the study was funded by the National Highway Traffic Safety Administration, and reviewed by NHTSA in draft form before being released, NHTSA officials immediately denounced it as relying too heavily on industry-supplied data. Nevertheless, conceded NHTSA's Barry Felrice, "Our agency is aware of the potential for regulatory standards, coupled with a dire economic situation, to have that effect on the industry."

Milestones

• *Tardy Correction.* The Rhodesian legislature has at long last abolished all legally mandated racial segregation in that strife-torn country. Six bills enacted in January end segregation in landholding, schools, hospitals, and housing. One of them dismantled the Land Tenure Act, under which the country had been divided into areas that only those of a particular race could own. But the repeal measures retain the 42 million acres of tribal trust lands, which constitute nearly half the country, as communally owned land for the black tribes.

• *Monopoly Ended.* The legal monopoly on domestic telegraphic services held by Western Union since 1943, when the bankrupt Postal Telegraph Co. was acquired by WU, has been ended by the Federal Communications Commission. From now on other firms will be free to offer such services as telegrams, mailgrams, and money orders, in competition with WU. Among those seeking to compete is Graphnet-Systems, Inc., a subsidiary of Graphic Scanning Corp. That firm plans to link up with ITT and RCA to deliver their international messages within the United States.

• *Freedom Gains.* Gains in political rights and civil liberties in 1978 outnumbered losses, according to Freedom House. Some 563 million people in 24 countries had improved conditions, while things changed for the worse in eight countries with 144 million people. Nevertheless, at year's end only 35 percent of the world's people resided in "free" countries. The annual Freedom House survey, while generally objective regarding political and civil liberties, omits economic freedom from its assessments.

• *Dump BATF.* Idaho's liberal Senator Frank Church has written to President Carter urging that the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms be abolished, along with the Gun Control Act of 1968. Both have long been targets of firearms/Second Amendment groups. Church wrote that he thinks the FBI and the Justice Department are sufficient for dealing with firearms-related crimes and that "both the blunders of BATF and the bureaucracy which executes them" should be eliminated.

• *Abandoning the Postal Service.* Yet another government agency is switching from the government's postal service to private United Parcel Service. This time it's the Internal Revenue Service. The IRS is using UPS this year to deliver its bulk packages of tax forms to accountants and other large users— saving $2 million.

• *Sanctity of Contract.* A woman who persuaded her lover to father her child by promising to pay for its upbringing must abide by that agreement. So ruled the California Court of Appeals. The agreement was based on the woman's promise "to hold him harmless from his legal obligation to provide financial support," and the woman's later change of heart cannot invalidate that promise, said the court.

• *Freedom of Choice on Trial.* The Food and Drug Administration has appealed the laetrile issue to the Supreme Court, which has agreed to hear the case. Last July the US Court of Appeals upheld District Judge Luther Bohanon's earlier ruling that the FDA could not prevent a doctor from treating terminally ill patients with the controversial substance. But the FDA argues that it must protect the terminally ill from "being exploited."

—Robert Poole, Jr.

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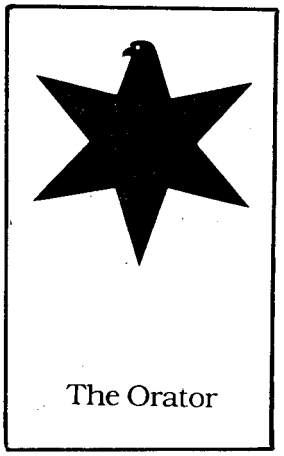

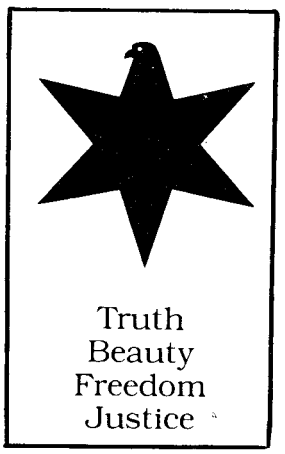

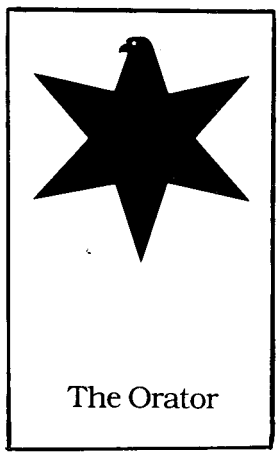

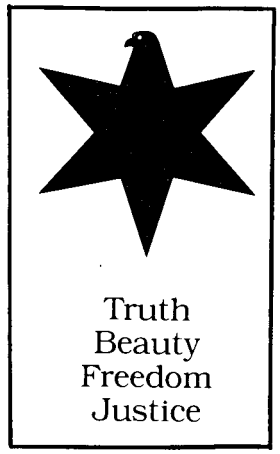

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The House Assassinations Committee and the Warren Commission are both wrong. There is no need to invoke a conspiracy to

SHOOTING DOWN THE CONSPIRACY

OVER THE YEARS a large number of Americans have come to believe that a conspiracy was involved in the assassination of President John F. Kennedy. The conspiracy theorists who emerged after November 22, 1963, and reached a high point in the several years after the publication of the Warren Commission Report late in 1964 have never retreated from their views. Their lobby played a significant role in pushing for the reopening of the investigation by the House Select Committee on Assassinations several years ago. Although the committee has not yet issued its complete report—the 40-some volumes of hearings and exhibits will far surpass the 27 published by the Warren Commission—statements already made by some of its members suggest the general direction of its analysis—much of it quite different from the interpretations arrived at by the earlier Warren Commission. Which investigative body is closer to the mark? Or is neither close enough?

The House committee has concluded that "the Warren Commission failed to investigate adequately the possibility of a conspiracy to assassinate the President" and, more sensationally, that Kennedy "was probably assassinated as the result of a conspiracy." These are, to say the least, serious charges, demanding that the assassination be discussed while, one hopes, the committee is still deliberating over the evidence and compiling its report. One "rush to judgment" was quite enough!

Many specific issues are involved in a complex historical event such as the assassination. It is incumbent upon the historian to explore four fundamental questions: what? how? who? and why? Though all are interrelated, the last is, without doubt, the most important. Interestingly, it has received less attention from the Warren Commission, its defenders and critics, and the recent committee than might have been anticipated. Of course, it cannot be addressed without a scenario—what happened in those six seconds—providing answers to the first three questions. And on this there is vast

disagreement. Detailed examination of all the scenarios that have been put forward would easily fill several volumes, and some of them are so inane as to defy rational comment. But what can we make of the several alternatives offered by the Warren Commission and now suggested by the House Committee?

CONSPIRACIES

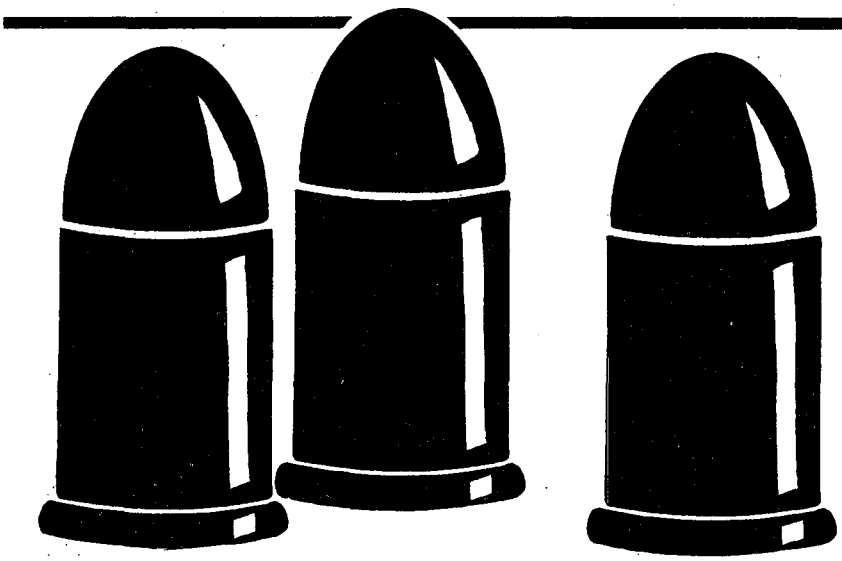
Whatever else one may think about the inadequacies, failures, and even errors of the Warren Commission, it was forced, by the very nature of its charge, to develop a scenario of what occurred. As it turned out, the commission offered three and, in effect, concluded that it was unable to settle on any one of them. Of course, this lack of finality on a crucial issue gave the critics a field day.

With few exceptions, the critics have seldom felt any need to develop a comprehensive scenario about what happened in Dealey Plaza. In order to sell books, it was only necessary to raise questions about specific pieces of data—never mind what was neglected nor whether the pieces selected might contradict one another and undercut the building of a coherent picture of what happened. And they were helped along by the fact that for certain people, including many intellectuals, the appeal of the conspiracy theory of history is almost addictive.

The several assassinations of the 1960s, the pursuit of the war in Vietnam including efforts to cover up bombing, atrocities, events in Tonkin Gulf, etc., and culminating in Watergate—all involving agencies of the government functioning in secrecy—have greatly heightened the sense of conspiracy. Among the "lessons" of Vietnam and Watergate, apparently, is the implication that suspicions about the Kennedy assassination as a conspiracy are also correct.

But what *are* the lessons to be drawn from Watergate? Surely one is that carrying out a conspiracy is a terribly difficult operation. In looking back on Vietnam, what is amazing is the extent to which the publication of secret materials such as the Pentagon Papers confirmed the criticisms of opponents of the war that were made at

explain what happened in Dealey Plaza. A historian—and eyewitness—recreates the events of November 22, 1963.



THEORY

by William Marina

an earlier date, usually by comparison and analysis of data from various governmental sources. I. F. Stone became famous using this technique, which might be called "the Izzy Principle." A close corollary is "the Jack Anderson Principle," derived from the fact that the politics of bureaucracy demands deliberate leaks as a means of subverting opposing policies.

The "Plumbers" and the Watergate break-in were results of these bureaucratic leaks aimed to defeat the Nixon administration's pursuit of its policies. There will inevitably be a "Deep Throat"! The tenacity of the leaker is amazing. Far from being hot-shot investigators—as Barry Susman, the editor above them, revealed in his book on Watergate—Woodward and Bernstein were frequently at a dead end, discouraged, and ready to give up. It was Deep Throat who, at each of these times, urged them on, tossing in new pieces of data to further the investigation. Deep Throat was determined to have them succeed, in spite of themselves, and surely ought to have shared in their investigative awards.

To satisfy some of the points raised by the conspiratorialists, the Kennedy assassination would have had to be a very *complex* conspiracy. One little item suggested in their agenda—the planting of exhibit 399, the so-called magic bullet found on a stretcher at Parkland Hospital—would have required extremely difficult planning and operations. So the question is, if such a relatively uncomplicated conspiracy and cover-up as Watergate came unraveled so easily, how could such a complex conspiracy as the Kennedy assassination have been kept so well for so long? This seems never to have bothered the critics.

With little hard evidence for an interpretation of their own, the conspiratorialists have demanded proof at a level, or beyond, what might be expected of an experiment in inorganic chemistry. But no event in the realm of human action can be so neatly tied down. Further, even in the physical sciences, perfect predictability is no longer expected. In explaining human events, one can do no better than to seek the most economical explanation that seems to confirm the most significant evidence, while contradicting as little as possible, if anything.

THREE BULLETS/TWO HITS

Any investigation of what happened in those six seconds in Dealey Plaza must begin with the hypotheses offered by the Warren Commission late in 1964. In the first weeks after the assassination, and with the Zapruder film available, an explanation of the event seemed easy enough. The President had been hit in the neck by the first shot; the second had hit Governor Connally; and the third had mortally wounded the President in the head.

But Warren Commission investigators concluded that it could not have happened this way. There was ballistic evidence for only two bullets within the presidential limousine—that found on Governor Connally's stretcher at Parkland Hospital, which had fallen out of his clothes; and the various pieces in the car, some of which had even cracked the windshield and all deriving from the bullet that had fragmented as it shattered the President's head.

The commission had no choice but to reject the initial, simple hypothesis. Yet, astonishingly, it is resurrected in *Legend: The Secret World of Lee Harvey Oswald*, a recent addition to the literature by Edward Jay Epstein, long-time student of the assassination and the work of the commission. Says Epstein, without any further explanation, "It can be concluded that Kennedy and Connally were hit by two separate bullets and that a third bullet then hit Kennedy." Such a statement must boggle the minds of commission defenders and critics alike, and it makes one wonder where Mr. Epstein has been all these years.

Having ruled out the three-bullets/three-hits scenario, the commission suggested three alternative hypotheses; each involved one bullet missing and the so-called magic bullet hitting both the President and the Governor (see chart). Although there is really nothing very magical about this shot—in fact, it could not have been otherwise—the commission's alternatives did raise a severe problem of another kind, the time gap between the reaction of the President and that of the Governor. The pros and cons of each alternative were discussed, but the commission reached no decision about which of them was most likely. This indecision; the interval in reaction time between Zapruder frame 225, when Kennedy emerged from behind the road sign already reacting violently to a wound while Connally did not until—he himself estimated—frame 234; the testimony of some witnesses of more than three shots coming from other directions, such as the grassy knoll; and the President's lurch backward after the head shot all proved a fertile ground for the critics in the years that followed.

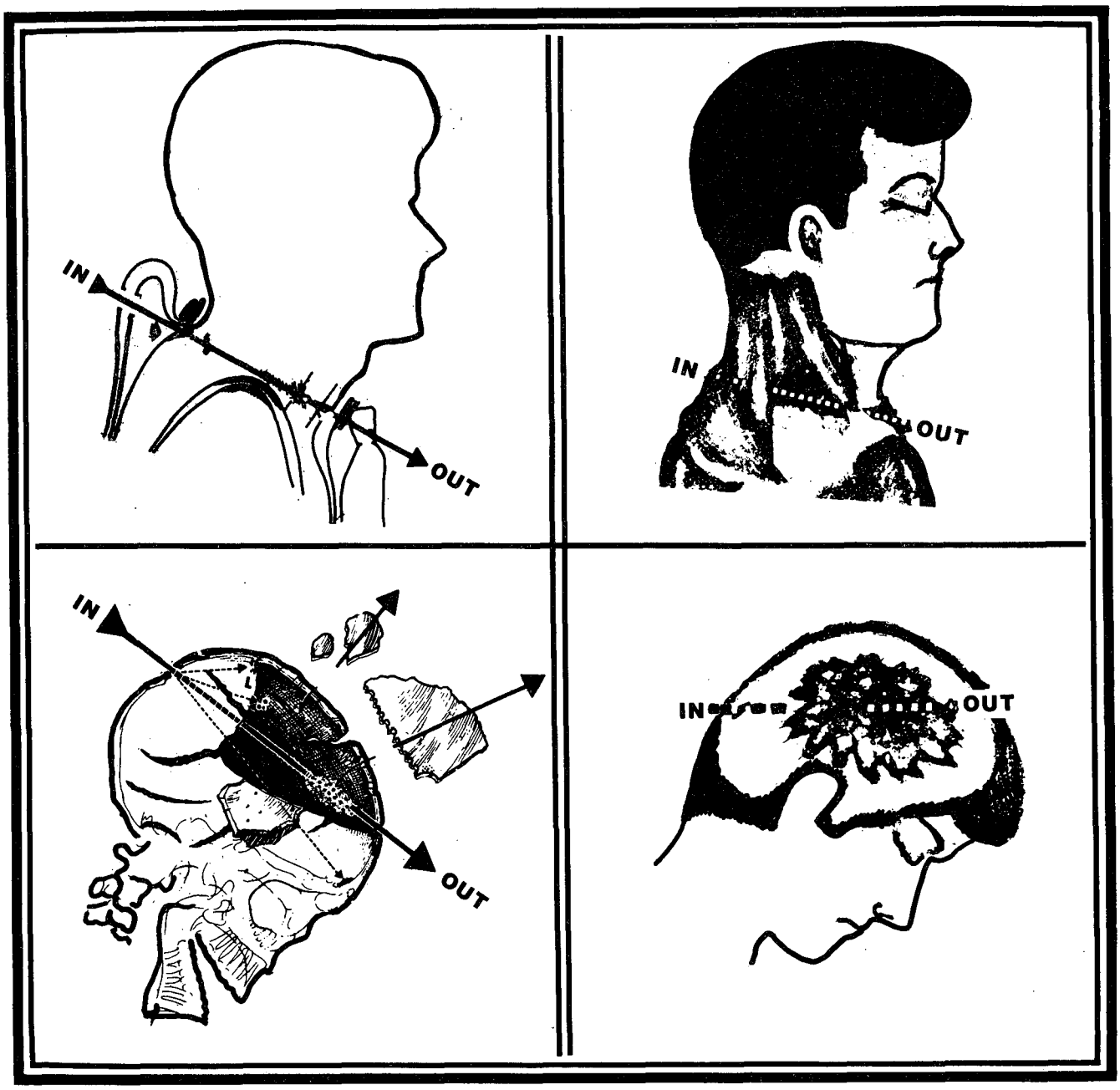
Few of the critics offered a complete scenario about what happened. One of those who did was Josiah Thompson, a philosophy professor at Haverford College. He wrote of three assassins, firing not only from the Texas School Book Depository but also from the grassy knoll in front of the limousine and from the Dal-Tex Building in the rear. To assess all of these criticisms would be a book or more, and some are simply unanswerable within the realm of human logic, such as a study, privately printed, which suggested that Secret Service Agent Roy H. Kellerman, in the left front seat of the car, was the assassin. I have not seen a theory insinuating that Mrs. Kennedy was behind it all so that she could be free to marry Aristotle Onassis, but given the atmosphere that has surrounded the assassination, it is not out of the realm of future possibility.

LINGERING QUESTIONS

While not at ease with the Warren Commission conclusions because of the reaction-time gap, I assessed the three hypotheses. About alternative one, I wondered how the assassin could have missed with the first and closest shot, for which he had ample time. I rejected alternative three from my own experience in Dealey Plaza, because I had rounded the corner of the monument immediately after the head shot and had heard no further shot. Like the Connallys, I had heard the first

	Original open-and-shut case (discarded)	Warren Report using "single-bullet theory" and bullet-that-missed		
		1st comb.	2nd comb.	3rd comb.
1st bullet	Pres-neck	MISSED	Pres-neck Connally	Pres-neck Connally
2nd bullet	Connally	Pres-neck Connally	MISSED	Pres-head (lethal)
3rd bullet	Pres-head (lethal)	Pres-head (lethal)	Pres-head (lethal)	MISSED

Source: William H. Hanson, *The Shooting of John F. Kennedy: One Assassin; Three Shots, Three Hits—No Misses* (1969), p. 102.



Lattimer sketches of angle of bullets striking JFK's neck and head

Warren Commission staff sketches of angle of bullets striking JFK's neck and head

The Warren Commission was in many ways its own worst enemy.

two shots closely bunched together, with a much longer interval before the third. If any of the commission's alternatives seemed plausible, despite the reaction gap, it was the second one, which suggested that the assassin had squeezed off a very hurried second shot that missed the President's car.

With those doubts in mind, I continued to study the event and use it in teaching a history methodology course. As I examined each of the volumes produced by the critics, in the light of what I had heard and seen that day, all seemed considerably more far-fetched than the alternatives put forward by the commission. This is not to say that the analyses, both by critics of the Warren Commission's conclusions and by many who defended it, added nothing to our knowledge of the event. On the contrary. Perhaps the most important development was that a number of medical researchers, including some forensic pathologists hostile to the commission's findings, were allowed to examine the films and x-rays taken at the time of the President's autopsy.

A certain congruency did begin to emerge. Studies by John Lattimer, essentially a defender of the commission's findings, and Cyril H. Wecht, a long-time critic, agreed that all of the shots had come from the rear. This autopsy analysis undercut the elaborate physics data put forward by grassy-knoll theorists such as Thompson based upon the backward thrust of the President's head. I had, myself, run over near the grassy knoll area immediately after the shots because from that elevated view one might view events in the motorcade, which had turned north toward the hospital after going through the underpass. Needless to say, I observed no assassins!

Hindsight was making it clear that the

commission and those associated with it had made a number of errors of judgment, many of which had opened the doors to a flood of criticism. One such was Navy Commander Dr. James C. Humes's burning of his autopsy notes. Studies like Epstein's initial one had exposed the intense political pressure under which the commission had labored in trying to publish its conclusions prior to the 1964 elections. From the standpoint of good historical research, these pressures and the handling of data left much to be desired.

Some of the errors, however, were inexcusable under any circumstances. Perhaps the worst, seized upon by the critics, involved the artist's sketches of the President's wounds, published by the commission. The indicated angles of the bullets made it difficult to understand how the shots could have come from the sixth floor of the Depository as argued by the commission. It was later revealed that these had been made without the artist having seen the autopsy materials and working

How could the assassin have missed with the first and closest shot, for which he had ample time?

instead from necessarily vague instructions from the commission staff. Contrast the sketches with those made by Dr. Lattimer (see page 21). The commission was in many ways its own worst enemy!

THE "MAGIC BULLET"

Now the question is, Will the House Select Committee on Assassinations do any better? It became evident in the initial hearings during August 1978, involving James Earl Ray and the assassination of Martin Luther King, that the committee did not share the conspiratorial views of attorney Mark Lane—once the defender of Oswald's innocence and recently lawyer for Ray, the latter now claiming to be innocent—or of black militants like the Rev. Jesse Jackson, arguing that Ray should have a new trial. A great deal of evidence shot Ray's allegations full of holes, while a polygraph test indicated that he had acted alone in killing King.

A number of important new pieces of evidence, along with some old, were introduced during the September hearings dealing with the assassination of President Kennedy. Some of it related to "neutron activation analysis" of bullet fragments, especially exhibit 399, the nearly whole bullet found on the stretcher of Governor Connally. This "magic bullet" has long been a prime topic for the conspiratorialists.

One view has been that the bullet was actually taken from the President's stretcher and planted on Connally's. The ballistic evidence flatly precludes this possibility. But suppose it *was*? Where, then, are the fragments that must also have existed from the wounds inflicted upon the Governor? That would, indeed, have been a "magic bullet," for it would seem to have disappeared!

Was the bullet planted by conspirators? We must consider whether that is the most economical explanation of the data—remembering that this is only one of a number of like actions that would have to have been carried out if a conspiracy did indeed exist.

The conspirators would have had to obtain beforehand a number of such spent bullets fired by Oswald's rifle. That is not, in and of itself, an insuperable difficulty. Then, agents would have had to be planted at each of the possible hospitals, even if fairly certain that the limousine carrying its wounded occupants would head for Parkland Hospital. The conspirator at Parkland would then have had to slip the bullet onto a stretcher so that it would later be discovered.

But, whether he slipped it onto the President's or the Governor's stretcher, how could he be certain the wounds would be compatible with the remains of such an almost whole bullet? Indeed, much of the discussion of conspiracy has stemmed from the fact that the severity of Connally's wounds seemed to many to belie the possibility of so little apparent damage to the bullet. If, then, the bullet was a plant, the conspirators went to enormous lengths and considerable risk—simply to create problems for themselves.

Most significant of all, how could the conspirators know the configuration of the spent bullets in the limousine? Suppose everyone had agreed that three shots were fired and that the remains of more than half of three bullets had been found in the car. Then the discovery of a bullet at Parkland would have made it certain, beyond a shadow of a doubt, that a conspiracy was afoot—the very thing the conspirators would have wished to avoid. It is difficult to believe that, lacking immediate knowledge of the wounds and disposition of the bullet fragments in the car, they would have gone to such lengths and risk. Such is the kind of answer that could have been offered to the magic-bullet speculations even before the House committee's work.

HOUSE FINDINGS

Now, however, thanks to the committee, we have the definitive answer through neutron activation analysis. For many years the critics have demanded such tests of exhibit 399. It turns out these were done in 1964, but the results were kept secret by the FBI because the technology of 14 years ago left some doubt about the conclusiveness of the tests. Dr. Vince P. Guinn, a University of California nuclear chemist, recently performed neutron activation analyses on CE399 and various fragments, and his test results were confirmed by independent consultants employed by the House committee. The results:

- All the bullet fragments found in the limousine or the victims came from just two bullets—one that wounded both men and another that hit the President in the head and killed him.
- The so-called magic bullet found at Parkland Hospital matched tiny fragments taken from Connally's shattered wrist.
- CE 399 and the other fragments contained a very slight amount of antimony,

The "magic bullet" on Connally's stretcher has long been a prime topic for the conspiratorialists.

as did the unfired bullet left in the chamber of the Mannlicher-Carcano rifle in the Book Depository, and it is "extremely likely" that all were from the same batch of ammunition.
- This level matched that found in the bullet fired at General Edwin Walker at his Dallas home in April 1963.

Also during the September hearings, the committee again heard testimony from the Connallys, a report from a team of forensic experts about the possibility of the "single-bullet" theory, and the presentation of a possible scenario by a space engineer and a photo analyst.

As they did when interrogated by the Warren Commission, the Connallys again maintained that the first two of the shots were bunched close together while there was a longer interval before the third, and final, one. The former Governor repeated that he was hit by the second shot (which he didn't hear) after hearing a first shot; exclaiming, "No, no, no"; and turning to his right in an effort to see the President. The greatest difficulty with any of the Warren Commission scenarios was still presented by the testimony of Mrs. Connally. She agreed that her husband was hit by the second shot, but when she turned after the initial shot she saw the President already reacting to a wound.

This would appear to raise questions that could not be answered within the Warren Commission model, even assuming a delayed reaction by the Governor.

The tape of the shots, recently discovered by the committee, would appear to confirm the Connallys' view, shared by my own recollection, that the first two shots were closely bunched, a mere 1.6 seconds apart. It is interesting that in his analysis written in 1969, Col. William Hanson suggested this precise figure, that a rifle could easily be fired in that time span, and that the Warren Commission averaging of 2.3 to duplicate the hits was simply based upon faulty logic.

At the same time, eight different forensic pathologists told the House committee that they agreed with the "single-bullet" theory offered by the Warren Commission. Only Dr. Cyril Wecht, a long-time critic of the commission, dissented from this opinion; even he agreed, however, that all of the shots seem to have come from the rear.

A second shot might follow closely upon the first without indicating a second assassin.

Finally, Tom Canning, an engineer, and Calvin McCamy, a photo analyst, presented to the committee a scenario similar to the Warren Commission's first alternative—a miss on the first shot, the second hitting the President in the neck and entering Governor Connally, and the third hitting the President in the head. Using a copy of the Zapruder film that had been enlarged, sharpened, and stabilized, the two men traced the trajectories to the sixth floor of the Depository. Fitting in with this scenario was evidence by other experts that, if the iron sights on the rifle had been used at that short distance, it would have been possible to fire the rifle considerably faster than the average of 2.3 seconds once estimated by the Warren Commission. A second shot might follow closely upon the first without indicating a second assassin.

Given the introduction of all this new evidence, but without a final report from the committee, we might speculate about whether the data produced thus far are likely to still the criticism that has surrounded the findings of the Warren Commission all these years. It seems clear that some of the critics and the media will continue to write about the assassination, whatever happens, simply because there is money in it. Still, this scenario does not fit certain pieces of information that have to be given some consideration.

FIRST-SHOT-MISS?

First, it does not, of course, conform to the testimony of Mrs. Connally. That this is the case was indicated by the Governor when he appeared recently on the Dick Cavett Show; it was his wife's recollection of the event, he said, that really raises questions about the conclusion reached by the Warren Commission. Second, there is Agent Kellerman's testimony that he heard the President utter, "My God, I am hit," immediately after the first shot, at which time he turned to see the President moving his hands upward toward his neck and head. (The President could not have so spoken after a neck shot damaging his larynx.) Third, there is still the question of the time between the obvious reaction of Kennedy and the earliest point at which a reaction to a wound can be observed with respect to Connally. Finally, there is the question how the assassin could have missed at such a close distance.

Consider the last point. If he used the iron sight for a quick second shot, it is difficult to believe the assassin would not have used the telescopic sight for the first shot, for which he patiently waited while the limousine approached him down Houston Street and then made the turn onto Elm. At one point, labeled Position A by the commission, the distance between the rifle in the window and the President is only about 91 feet, or only slightly more than 30 yards, so that the image in the scope is very large. Why the assassin did not fire at this point must forever remain conjecture. Perhaps it was because he wished all his shots to be clear of the oak tree that blocked his view—from Zapruder frame 166 through 210 the commission estimated, with a gap in the foliage at frame 186, during which the President was briefly exposed.

Although CBS News years ago argued for such an early shot, a considerable amount of evidence would suggest otherwise. As he went behind the road sign after Zapruder frame 193, for example, the Governor had not as yet made any sort of movement to turn toward his right to look at the President in response to the sound of the first shot. A really early shot, which was not indicated by any witnesses, if a hit, would have meant a rather long delayed reaction by the President and an incredibly long one by the Governor.

If the first shot was a miss, at whichever of these early Zapruder frames it is estimated, then such a miss must have been caused by the bullet being deflected by the limbs of the oak tree partially blocking for a moment the assassin's view. This *must* be the case, because, when one says "miss" with respect to this first shot, it is important to remember that this does not mean a miss of just the President and the Governor, but of the *entire* limousine. It is simply inconceivable that, unless he hit the tree, the assassin with a 4x scope, or even iron sights, could have missed the car at a distance of anywhere from 138 to 176 feet and then have made the two subsequent, incontrovertible hits from a longer distance. None of the news reports indicate at which specific frame Canning and McCamy believe the miss-shot to have occurred.

While it is impossible to dismiss altogether the first-shot-miss notion, I have always had some reservations about it. First, the rather light foliage on the oak tree when the FBI filmed it in full bloom in the spring of 1964 might not deflect a relatively heavy bullet of medium speed such as the 6.5. Second, in viewing the FBI film in the National Archives, it did not seem to me that the assassin's view was obstructed nearly as much as suggested by the Warren Commission. Third, as noted some years ago by Edmund Cooper Johnston, the FBI photographer was far to the left of the window, although we cannot be certain that the assassin was so positioned. If one moves several feet to the right, the number of frames upon which the limousine is exposed is greatly increased.

If the bullet was planted, the conspirators went to enormous lengths simply to create problems for themselves.

From the above, the reader may have concluded that the recent House committee was on the whole building a single-assassin, nonconspiracy theory that might fit the essentials of the Warren Report—despite some criticisms of the Warren Commission's work now acknowledged even by such members as Gerald Ford, who was angered by the new evidence suggesting that certain data were withheld from the commission. Insiders had been aware that deep divisions existed within the committee with respect to those who believed in a conspiracy and those who did not. And any illusion of unity or consensus was shattered by the announcement of December 31 that there was the probability of a conspiracy.

The major piece of data for this assessment was the tape recording of the shots made from the radio inadvertently left on by a motorcycle policeman. On this tape a

fourth noise is heard almost immediately after the third shot, which is an interval after the first two, bunched shots. This has revived the whole grassy-knoll scenario. Dallas police have recently said that Officer H. B. McLain's cycle was not near the scene as claimed by the committee, but was more than two miles away. On February 8, the *Denver Post* reported the existence of a new film of the event taken by Dallas resident Jack Daniels. If, as rumored, the grassy knoll is clearly visible, this may settle that controversy as well as locate Officer McLain's cycle. This question must await further evidence and analysis.

Some of the critics and the media will continue to write about the assassination because there is money in it.

But it is difficult to conceive of the grassy-knoll assassin. There is no real evidence of one from any extant picture and, most importantly, no ballistic evidence in the car of a frontal hit. Unlike the rear, it is a poor position from which to ambush the car, and when I rather immediately ran up the knoll to see from that vantage point what was going on in the motorcade, I saw no evidence of anyone fleeing the scene. But here again, we must ask of this supposed fourth shot, which I suspect was some other noise, *how could the assassin have missed the entire car at such a close range*? If he missed, the bullet would have hit across the street just about where I had fallen to the ground after the third bullet. I experienced no such explosion.

THREE BULLETS/THREE HITS

Are we then back to square one, destined to have a continuing controversy led by politicians seeking publicity, publications seeking sales, and an additional lobby of conspiracy theorists—much of whose identity, and even some income from foundations, writings, etc., depends on pursuing the notion of a conspiracy theory?

It is interesting that for some years there has existed a nonconspiratorial study that appears to solve the crime from within a different framework from that suggested by the Warren Commission and that fits *all* of the data that I experienced that day in Dallas. It is a study by retired Air Force ballistics expert Col. William Hanson—*The Shooting of John F. Kennedy: One Assassin; Three Shots; Three Hits—No Misses*. What has amazed me is the way his book has been virtually ignored by the media and even a so-called scholarly bibliography put together by a professor at Wisconsin. Conspiracy buffs simply don't wish to discuss it, and many I have spoken to have not even read it. Governor Connally has a copy and, if he bothered to read it, would find most of his own questions answered by the analysis. The House committee was sent copies and then asked for additional ones. It will be interesting to see whether it offers in its final report any detailed comment on the Hanson hypothesis, simply mentions it, or ignores the study as virtually everyone else has.

It would be impossible to summarize here what it took Hanson a book to do. Essentially what he does is to break free of the assumption upon which most of the writing, of critics and defenders alike, has been based. This is the notion that Kennedy's initial reaction was to a neck wound. But what if his reaction was to a ricocheting bullet that had inflicted a head wound later obliterated by the massive head wound at frame 313? (See chart.) Such occurrences are not uncommon, according to experienced ballistics experts.

This would fit the testimony offered by the Connallys, as well as Agent Kellerman's that the President had said he was hit. In his testimony Kellerman indicated that the President had his hands up to the side of his head at a point at which he was screened from Zapruder's camera by the road sign. It was the second bullet that went through the President's neck and then wounded Connally. Far from being a magic bullet, the slowing down caused by the flesh of Kennedy's neck probably saved the Governor's life and kept the bullet from fragmenting when it hit his bone. The President's already weakened scalp cover thus took a more severe wound from the head shot, and the jet-propulsion at that weakened point explains the backward thrust many at one time attributed to a shot from the front, but for which there is no ballistic evidence.

But the strongest piece of evidence comes from Mrs. Kennedy, who testified that she turned to her right after hearing a noise and the Governor's shout.

> And all I remember is seeing my husband. He had this sort of quizzical look on his face, and his hand was up, it must have been his left hand. And just as I turned and looked at him I could see a piece of his skull and I remember it was flesh colored. I remember thinking he looked as if he had a slight headache. And I just remember seeing that. No blood or anything.

Mrs. Kennedy was describing the scalp, which is flesh-colored, and not the white bone of the skull. But the important thing is the wound at this very early point in time. She could not have meant the head wound from the much later third shot, which induced massive splattering of blood, brain, and bone, much of which was all over her; nor could she have been referring to a neck wound.

If we are looking for the most economical explanation that fits the accumulated data, Colonel Hanson's analysis fills the bill. Of course, many people are clearly more interested in a conspiracy theory per se than in a theory accounting for the facts.

	Hansen three-hit scenario
1st bullet	Pres-head
2nd bullet	Pres-neck Connally
3rd bullet	Pres-head (lethal)

The notion of conspiracy is in many ways an evasion of detailed causal analysis. Conspiracies have occurred and will, no doubt, continue to do so; but this is no justification for becoming emotionally addicted to such explanations to the exclusion of more extended and complex analyses. William Appleman Williams observed in *The Contours of American History* that such addicts "seem to have confused consciousness of purpose with conspiracy. Now neither contingency nor madness is absent from history, but the vast majority of significant figures on the stage of history act consciously and purposefully (if usually routinely) within their conceptions of the world. Hence to assert, or assume, that the choice of interpretations lies between irrationality, chance, and conspiracy is to distort the nature of history almost beyond recognition. History written from that point of view becomes little more than a bag of tricks dumped upon the living." ◻

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Environmental zealots have lost the battle at the polls—but are winning the war as governmental bureaucrats.

Environmental Activists Capture Washington

by H. Peter Metzger

WE ARE EXPERIENCING what may be a truly unique development in all of human history: the capture of the wealth-generating machine of society—what we call the economy, today—by people who want to turn it off. It's not the method that is new, for the "spoils system" has been operating since before written history began, determining who gets control of a society's wealth-generating machine. No, it's the objective that is unique.

Whether it was one stone-age family killing off another or one Pharaoh eliminating another or, today, one political party taking over the presidency after years of domination by the other—it was always a matter simply of gaining control of the wealth-generating machine of society in order to serve the new masters of power. With the rare exception of the capture of a society by religious fanatics dedicated to myth and superstition, throughout history no newly ensconced power structures have advocated the destruction, or even the slowing down, of the wealth-generating machine. No one, after all, wants to kill the goose that lays the golden eggs. Not until now, anyway.

Today everything is different. There are now many people who want to slow down the economy—for reasons based no less on myth and superstition than those of the religious fanatics of another time. These people have been around in great numbers since the 1960s, but only recently has the spoils system brought them to the seat of power, to Washington.

Like most zealots, they are very different from ordinary people. True believers all, they exude party line and exclude from serious attention any nonconforming person or opinion. With such people in power, Washington is a changed place. Gone is the respect between rivals, and even the idea of "the loyal opposition" has disappeared. Carter's promise of a populist, egalitarian, informal, and open government has turned into a government of intolerant zealots, almost religious in the intensity of their beliefs.

"There is a feeling that bigotry, clothed in righteousness, has taken over and is fouling the processes of government," says Llewellyn King, publisher of the *Energy Daily*. "It came about because President Carter has introduced into public service a new kind of individual not formerly part of the Washington scene. They are the environmentalists, the consumer-advocates and others from what is loosely called the counterculture. The strength of the new men and women who dot the Carter Administration and who came out of a gaggle of activist organizations is that they feel in possession of moral legitimacy."

That's what they are like. The rest of the story is what they want and how they might get it and, first, where they are in government.

One campaign promise Carter made good on: he "hoped to challenge" Ralph Nader, he said, "for the role of top consumer advocate in the country." And that's just what happened.

A great many subcabinet posts have been given to former public-interest lawyers, consumerists, civil rights workers, and especially environmental advocates. Though they number less than 100 in all, the jobs they hold are very powerful: 14 key White House assistants, including the president's chief speechwriter, come out of the public-interest movement.

And if you imagine that speechwriters are just some sort of glorified secretary, you have been misled. More often than not, they actually originate public policy simply by the hypnotic effect of their words upon their employer. A case in point (which also illustrates how completely susceptible is our president to shallow and half-baked utopian ideas): The intellectual leader of the no-growth advocates is Amory Lovins, who visited President Carter in October 1977. Lovins presented his utopian ideas for converting America to his "soft-energy path," which requires abandoning the large cost-effective electric power plants we have today in favor of small neighborhood-size generators. Long before the meeting, Lovins's calculations had sparked a lively debate, and much had been written on just how unrealistic they turned out to be. Lovins, for example, overstates the cost of nuclear power by a factor of two and understates the true cost of solar energy by a factor of ten; naturally, solar looks good to him! But just 20 hours after meeting with Mr.

Lovins, and without the benefit of consulting with any of the many energy experts available to him, President Carter presented Lovins's energy calculations *verbatim* and *uncritically* in a speech before a conference on nuclear power.

If the anti-energy activists had captured only White House posts it would have been serious enough, but four of them are now assistant attorneys general in the Department of Justice, and others are assistant secretaries in the departments of Health, Education and Welfare; Commerce; Interior; Agriculture; and Housing and Urban Development.

Even more important, perhaps, are the Naderites who themselves control large bureaucracies and multimillion-dollar budgets in completely or partially independent agencies. Public-interest advocates, or those who share their concerns, have been appointed to chair the Equal Employment Opportunity Commission, the National Highway Traffic Safety Administration, and Occupational Safety and Health Administration, ACTION, and the Federal Trade Commission.

And the environmentalists have had the biggest victories. Ranking jobs in the Environmental Protection Agency and the Interior Department have gone to men and women who have sued in the courts and lobbied on the Hill for conservation, protection of wildlife, and clean air and water. *All three members* of the Council on Environmental Quality come from their ranks. And a half-dozen of the most active critics of the Nixon-Ford policy on the exploration of the continental shelf are now Carter bureaucrats in various agencies.

So that's where they are in government. I call these people Coercive Utopians—utopians, self-evidently; and coercive in that, instead of convincing us that their vision of tomorrow is so attractive that we ought to move their way by normal democratic means and convinced by their good example, they are doing it covertly and, therefore, coercively.

THE ANTI-ENERGY VISION

Now these Coercive Utopians are not very precise about what it is they really want. While that's quite typical of utopian movements throughout history, our present crusaders are extreme in this regard.

But what they all seem to agree upon is that they want a halving of our per capita energy consumption. Lovins-style, they also want the end of central power-generating plants (even including solar stations, if they are very large) in favor of small neighborhood power stations under local control. And, lastly, they want a shift from all fossil and nuclear fuels to solar energy.

Beyond this, their philosophy gets very murky, particularly when it comes to what form of economy their utopia will have. But it isn't capitalism or private ownership, that's for sure.

Take Nader's economic plans, for example. Most people believe that his main interest is consumer protection. Even if that was once the case, he's moved well past that modest goal. His real objective, curiously unknown to most of his supporters, is the establishment of a new form of government—a "consumer-owned economy," he calls it. That means breaking down the economic system into smaller parts responsible to local control. In an interview with *Rolling Stone*, Nader elaborates: "The workers should run the manufacturing and the consumers should run the retail and (or) consumer cooperatives should own the manufacturing." He includes banks as well. He has a high opinion of China. "Compared to China we can't get anything done. China eradicates VD, we can't even stop it from increasing." As for our country, people shouldn't have to work more than 20 hours per week "if distributive ownership and justice prevail."

The Coercive Utopians, crushed at the polls, adopted less-visible tactics.

Nader is very strong on halving our energy consumption, but even he realizes the immensity of the social upheaval that would result. So he acknowledges that we will have to be forced into it by hard times. He reports to the *Village Voice* that we *will* reduce our energy consumption by half, "but first there has to be an intermediate stage of liberalism failing, and of economic bad times without novocaine."

By stopping every energy development in sight—using delaying tactics in the courts—the Naderites will in fact be responsible themselves for producing the very energy shortage they *want* and *need* in order to put into effect their vision of the future. And who do you suppose will take over in the ensuing chaos?

POLITICS REVEALED

Other Coercive Utopians have a simple distribute-the-wealth scheme. Consider the politicization of the anti-energy movement as expressed in the *Bulletin of the Atomic Scientists*. A recent article had a theoretical physicist advocating "a new international economic order" (a Third World buzzword) to eliminate the "disparity between the rich and poor."

Even Barry Commoner, the eloquent and influential ecologist who started the phosphate-in-detergent scare (which was a fake, by the way)—consider how he has come out of his political closet. In *The Poverty of Power*, he attributes the energy crisis to our inefficient use of fuels, although he offers no insight about how to have a perfectly energy-efficient society and freedom at the same time. At the end of *The Poverty of Power* Commoner says: "Economists and other students of capitalism will recognize that the basic ideas I have discussed are among those first put forward by Karl Marx. All this suggests that it may be time to view the faults of the United States capitalist economic system from a vantage point of alternative—to debate the relative merits of capitalism and socialism."

Having thus scared the pants off us and backed us into his Marxist solution, he ignores the fact that, not only have the socialist countries done no better than we have in solving the energy-environment problem; but the Soviets, Yugoslavia, Czechoslovakia, Hungary, and Bulgaria have all turned in a big way to nuclear power, one of Commoner's pet hatreds.

It's not the far-out political views themselves that are bothersome. It's that they are forcing us into their political corner by creating a situation of economic chaos, creating an economic time-bomb that is already ticking away—probably irreversibly.

TURNING OFF NUCLEAR

And how are they going to get their way? By strangulation. By stopping everything we need to grow: coal *and* nuclear power, land use, and new industry. In the acknowledged economic chaos that *must* follow such a course, they hope we will all wake up to the glories of their utopia and simply climb aboard their bandwagon; we will have, they figure, no alternative. That's why I call them *Coercive* Utopians. The plan, their "hidden agenda," has been in operation for some time, and great harm has already been done.

At first their agenda wasn't so hidden. In 1976 they attempted to ban nuclear power at the ballot box. Promoted as initiatives for "safe" nuclear power, the proposed legislation was nevertheless voted down by two-to-one margins in seven states. So the Coercive Utopians, crushed at the polls, adopted less-visible tactics. First by delays in courts and now by delays from their new positions within government (in the name of review and evaluation), they have stopped the future lifeblood of our economy. Nothing seems different today, but when power plants, land exploitation, and new industry are stopped —stopped; not *controlled wisely*, but *stopped* cold—when those things are

stopped, we don't notice it today because we don't need it today. But 5 to 15 years down the line, there is in store for us an economic cataclysm that will make the Great Depression look like a tea party.

If it seems unbelievable that all those important things are stopped already, just consider them all, starting with what Carter calls our "nuclear option."

In 1977 nuclear power-plant licensing was suspended in order to streamline the process and shorten the 12-year-long licensing period. After six months the *New York Times*, not exactly a pro-nuclear newspaper, editorialized: "The Carter planners have operated in such a hasty and even slapdash way that their draft legislation is itself now in need of study and thorough review." A half-year later, an analysis produced by three law professors from Columbia, Washington, and Cornell universities called Carter's new nuclear licensing plan "at best wasteful and at worst one which makes rational planning for energy needs impossible."

California is even worse off. That's where Gov. Jerry Brown tries to out-Carter Carter on energy—and Carter is the man who promised to out-Nader Nader. Back in 1975 the state legislature created the state Energy Resources Conservation and Development Commission to speed approval of power-station construction throughout California. As in most states, the number of hearings and permits for all new power-plant construction had swelled to cumbersome proportions. So it was proposed that the entire procedure be done in one giant hearing before the California Energy Commission—"one-stop shopping," said its promoters in getting the enabling legislation passed. But in the many months since the commission went into operation, it has not approved a single power plant for construction, so it is now called the "one-stop stop." So much for our "nuclear option" in California.

Meanwhile, back at the federal level, the Department of Energy—incidentally, the only department in the administration that is not in the control of Carter-appointed Naderites—submitted its Nuclear Licensing Reform Bill to Congress on March 17, 1978. It still has not been acted on, and its future looks dim as anti-nuclear zealots both in and out of government zero in on legislation they call "unacceptable" (that's the opinion of Nader's *Congress Watch*) and "badly conceived, badly drafted, badly motivated and a sell-out" (the opinion of the Natural Resources Defense Council).

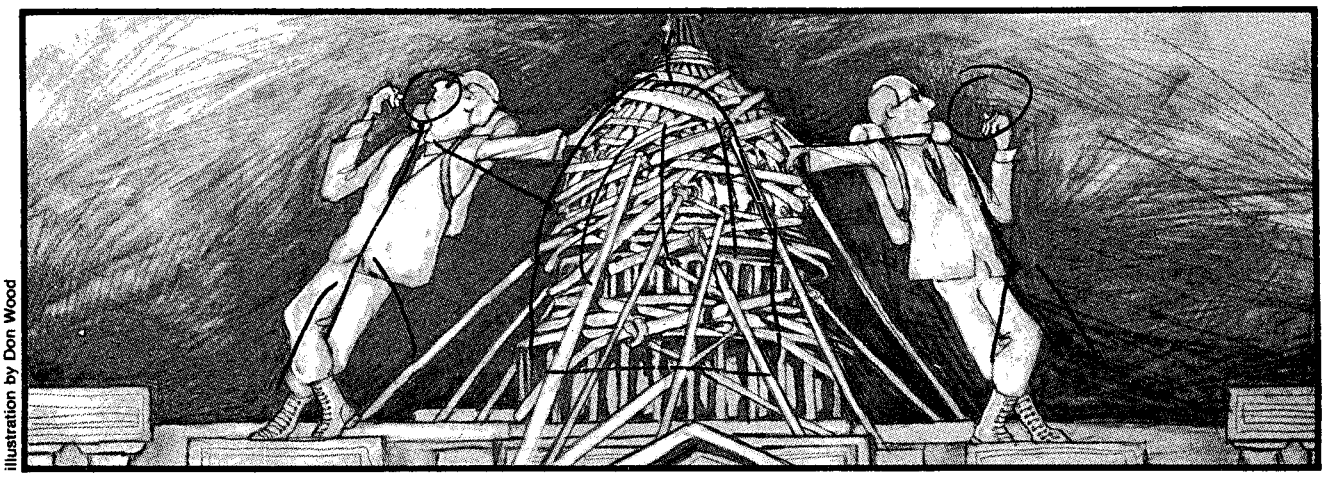


illustration by Don Wood

BURYING COAL

Of course, nuclear *is* controversial, and California *is* a little crazy. But we can't look to coal to pull our energy chestnuts out of the fire, either, in spite of all the jawboning on coal done by President Carter. The administration calls it our "coal option"—and it's our *last* "option" after nuclear. There are *only two*.

Most people are astonished to learn that no new coal leasing will be permitted until at least 1981 and probably much, much later. Those who do know, and approve of that, point out that it's only *new* coal leases that are held up by complicated environmental policymaking. There are plenty of *old* leases, they say.

It's true that there are 519 existing and unworked federal coal leases in the seven western states. But an examination by Charles Margolf of W. R. Grace & Co. shows that only five percent of these can be considered mineable. Why can't the remaining 95 percent be worked? Because those 491 leases were all issued prior to 1970, which means *before* the passage of:

- The National Environmental Policy Act
- The Clean Air Act of 1970
- The Clean Air Act Amendments of 1977
- The Clean Water Act
- The Clean Water Act Amendments
- The Coal Leasing Act Amendments of 1975
- The Surface Mining Control and Reclamation Act of 1977
- The Endangered Species Act
- The Safe Water Drinking Act of 1974
- The Historic Preservation Act
- The Solid Waste Disposal Act of 1971
- The Federal Water Pollution Control Act Amendments of 1972
- The Mine Safety and Health Act
- The Mine Safety and Health Act Amendments of 1977.

There are, in addition, state legislation and a host of rules and regulations of numerous agencies of the federal government such as BLM, USGS, EPA, CEQ, MESA, and the Corps of Engineers. Also, many new rules and regulations are coming; and new agencies, such as the Office of Surface Mining ("OSM"), are just getting into business.

Obviously, the laws, rules and regulations applicable to coal mining today are considerably different from those prior to 1970, when 95 percent of the existing leases were issued. So old leases are of very doubtful value, and new leases just don't exist. And the latter is one of many remarkable stories coming out of Carter's Washington these days—the story of a house divided against itself and the surrendering of federal power to "public-interest" anti-energy activists. Here's *why* we won't have any federal coal leasing until around 1985.

WHO HOLDS THE REINS?

On September 27, 1977, US District Court Judge John Pratt ruled in favor of the Natural Resources Defense Council, a private environmentalist-activist lawyers group, and against the US Department of Interior (*NRDC* v. *Hughes*). As a consequence, Interior must rewrite and greatly expand its already prepared Environmental Impact Statement (EIS) on coal leasing, thus freezing any new coal leases on federal lands until lengthy new EIS requirements are fulfilled.

But what is really significant about *NRDC* v. *Hughes* is that it was definitely not an adversary proceeding. It was, rather, a formalizing of plans for long-range national coal development made between individuals of *identical and rather extremist philosophy*, with the total exclusion of the views of industry.

For example, John Leshy is an Interior lawyer who is preparing defendant Interior's EIS as demanded by plaintiff NRDC. But he was actually employed until 1977 as the NRDC lawyer who prepared plaintiff NRDC's case against defendant Interior. Leshy is now "defending" against *the very case he created.* Also representing Interior in its so-called defense against NRDC's suit was Justice Department Assistant Attorney General James Moorman, who took that post after leaving his job as executive director of the Sierra Club's legal defense fund. To add to the nonadversary nature of *NRDC* v. *Hughes*, a Sierra Club attorney, Bruce Terris, took over as NRDC's attorney when Leshy left NRDC to work for defendant Interior. Thus, plaintiff's attorney Terris ended up arguing "against" defendant's attorney Moorman when just a year before both men were Sierra Club lawyers.

With such a cozy relationship, it's no wonder the following remarkable development took place: the Department of Interior actually gave up its decisionmaking powers on federal coal leasing to NRDC (remember, it's a *private* organization) on February 25, 1978. Since Pratt's decision effectively stopped cold all coal development in the United States, Interior appealed *NRDC* v. *Hughes*. But NRDC, fearing a reversal, was willing to compromise. Using the excuse of the sure delay that would have been caused by a lengthy appeal, Interior agreed not to appeal the case in return for NRDC agreeing to a certain limited amount of coal leasing—subject to advance approval by NRDC. With this veto over any leases proposed by Interior, NRDC, *not Interior*, now controls federal coal-leasing policy in the United States.

Furthermore, the agreement was reached in secret sessions between Interior and NRDC but excluding Utah Power and Light, a party to the case prior to Pratt's original ruling. In vain, Utah Power and Light petitioned the appeals court to bar Pratt from accepting the NRDC-Interior agreement, but its request was denied.

RED-HANDED

Can you imagine the reaction if this had all happened the other way around, if a president—say Nixon—had left nuclear licensing up to private out-of-court settlements reached by a hand-picked Nuclear Regulatory Commission, composed entirely of lawyers appointed from the nuclear industry, who would then "negotiate" in secret with the various electric utility company lawyers for the licensing of their own nuclear reactors? Can you imagine what the reaction of the press would be? But the press has been utterly silent on *NRDC* v. *Hughes*.

Not so silent have been a lot of people when they read my account of *NRDC* v. *Hughes*, which has appeared in various publications. Some folks wrote to their congressmen demanding clarification, and eventually Interior's solicitor, Leo Krulitz, responded to Florida's Senator

The "wilderness lobby" in Washington is no longer a lobby but has moved right into the halls of power.

R. Stone. While admitting all of the environmentalist connections, and the exclusion of Utah Power and Light, Krulitz stoutly maintained that the Interior "Department has relinquished no coal leasing rights to the Natural Resources Defense Council." But place this denial alongside the following quote from the Modification of the Order of the Court itself (US District Court, Civil Action No. 75-174, Washington, D.C.):

> The Federal Defendants [Interior] are authorized to process 20 preference right lease applications. The preference right lease applications are to be those which the Federal Defendants and the Plaintiffs [NRDC] mutually concur would cause the least environmental impact of all preference right lease applications pending before the Secretary [of Interior] on the date of this agreement. If the Federal Defendants and Plaintiffs are unable to agree, the Federal Defendants shall submit a list of applications two times the number of disputed applications, but not less than 20 for final consideration.

Interior "has relinquished no coal leasing rights to the NRDC"? What the above in fact says is that no new federal coal leases can be released until NRDC and Interior "*mutually concur.*" That means that either or both have an absolute veto, and that means NRDC can veto any new coal leases.

Krulitz, caught with his hand in the cookie jar, responded like the child in the same position who tried to defy reality by saying, "What hand? What cookie jar?" He closed his recklessly written letter to Senator Stone with the admonition that the story, as told above, "should not be read into the *Congressional Record*, because it is grossly inaccurate and inflammatory." It certainly *is* inflammatory—it ought to inflame anyone who recognizes what's going on—but it is hardly inaccurate.

So there go our only two near-term energy options, coal and nuclear. We don't notice it yet—but we will.

WILDERNESS POWER

And the use of federal land? Here we encounter the notorious RARE II. In the name of review, the Department of Interior has withdrawn 68 million acres of federal land from development of any kind until it can be decided whether or not to give it "wilderness" status—this despite the fact that this exact review has already been going on for 16 years. RARE II stands for Roadless Area Review and Evaluation, second time around.

So Interior has denied Sierra Pacific Power Co. a right-of-way for a transmission line across northern Nevada because it would go across federal land that is "under study" for wilderness classification. The alternative route selected for Sierra Pacific by Interior adds 74 miles of wires and towers to the original plan denied by the wilderness lobby in Interior. That means an initial cost of $7.4 million for the hardware alone and more costs that go on for as long as the line is in existence—such as transmission-line losses, energy that would supply 1,600 homes each year, *every year*, if it weren't lost on those 74 extra miles; and another $1.5 million, each year, to cover the extra capital costs. And then there's the delay, at $673,500 per month.

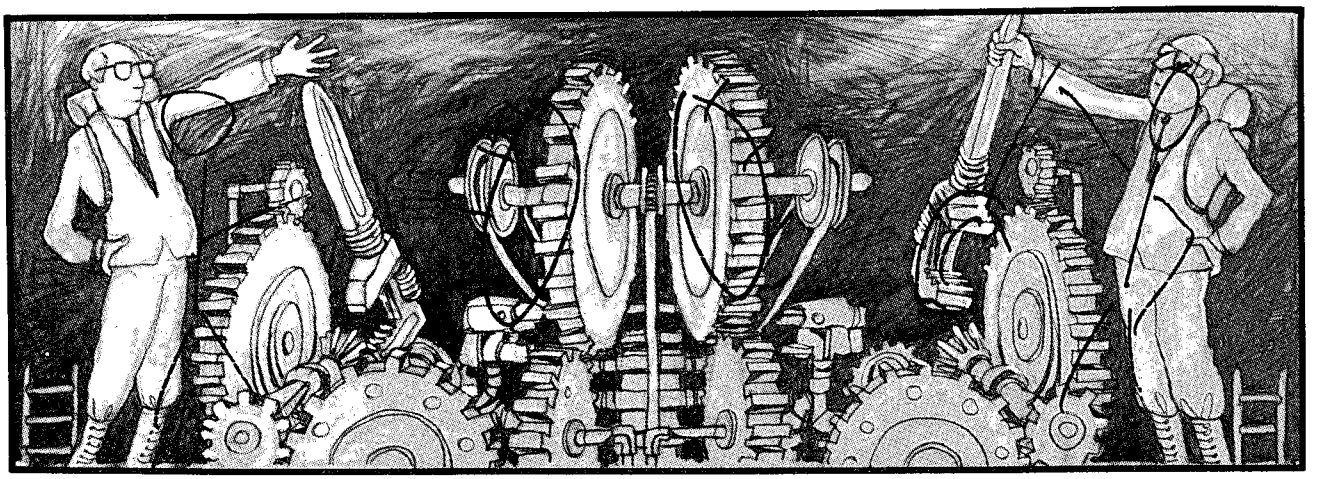
To add insult to injury, the land "under study" almost certainly will never be declared a "wilderness" area, since that particular "roadless area" is crisscrossed with agricultural roads, which don't count as roads under RARE but which in many instances can be traveled at 50 miles per hour.

The Department of Energy considers 40 percent of the land locked up by RARE II to be of "major interest" for energy development. Drilling for oil and gas is now —and very suddenly—prohibited on millions of acres of, to take just one example, the Overthrust Belt, estimated to contain 4 billion barrels of oil and 14 trillion cubic feet of natural gas. All that drilling is stopped until Interior decides what will and what won't be wilderness. And "deciding" can take all the time in the world.

Lumbermen are also waking up to the fact that RARE II is going to put some of them out of business. But lumber, oil and gas, and all other affected operators *were simply not informed* by Interior of the series of "workshops" the government held in 1977 to get "public" input about

what lands should be included in RARE II. Evidently, business isn't "public."

All this could occur because the "wilderness lobby" in Washington is no longer a lobby but has moved right into the halls of power. The government's director for the RARE II inventory is Carter-appointee George Davis of the US Forest Service. Just before Davis entered the government he was executive director of the Wilderness Society. And it's expected that Davis's job in getting wilderness-extremists' views cast into the concrete of the final RARE II report will be easy, considering that responsibility for it belongs to M. Rupert Culter, now assistant secretary of Agriculture. Before Carter appointed him to that job, he was, like Davis, also a high official in the Wilderness Society.



There is but one small hint of a return to reason. There has finally been a response to the many millions of dollars spent yearly by the so-called public-interest law firms (like NRDC, the Environmental Defense Fund, the Sierra Club Legal Defense Fund, and the Center for Law and Social Policy) in their efforts to stop growth. Seven regional litigating centers, all under an umbrella organization called the National Legal Center for the Public Interest, have been created, thus breaking the Coercive Utopians' monopoly on the "public-interest" concept.

For example, one regional center, the Mountain States Legal Foundation (MSLF), is dedicated to "counterbalance those who use our judicial system to restrict economic growth" and to "defend individuals and the private sector from illegal and excessive bureaucratic regulation." And in September 1978 the MSLF challenged the right of the federal bureaucracy in using the RARE II lever to deny public use of and access to federal lands and resources, without the approval of Congress, in a lawsuit filed in a Wyoming Federal District Court.

CURBING NEW INDUSTRY

But the anti-growth story has yet another chapter—new industry.

Consider this: John R. Quarles, Jr., was the deputy administrator of the Environmental Protection Agency during the Ford administration. In criticizing the Carter EPA, Quarles has written: "Recent amendments to the Clean Air Act provide that in any area where the air quality standards have not been fully attained [most cities], no new industrial plant can be built after July 1, 1979, unless the state has adopted and the Environmental Protection Agency has approved an air pollution control plan that will assure full compliance by the end of 1982."

Says Quarles: "This provision, like a loose cannon on a pitching deck, threatens a path of destruction.

"The new law allows no leeway. If the plan is not finished and approved—no matter why—the sanctions apply automatically. If a state agency lacks adequate manpower; if a governor opposes one part of the program; if EPA rejects a plan for technical or procedural defects; *if anyone ties up the new plan in litigation*, or if for any other reason the deadline is missed, then federal law will prohibit construction of new plans with unforgiving finality. There is no discretion not to enforce the law. And any citizen can delay the plan by filing a lawsuit."

The first big casualty of the 1977 Amendments to the Clean Air Act found EPA's Coercive Utopian Alan Merson in the act. He stopped construction of two coal-fired power plants in Colstrip, Montana. His reason? The Northern Cheyenne Indians live nearby, and an extremely suspicious EPA-computer-generated air model predicted that on some days each year EPA air standards would be violated. According to the *Denver Post*, Merson explained that Congress wanted to guarantee the Indians "some self-determination over their lives and give them the right to clean air. Economics in a sense becomes irrelevant."

Now Merson would probably say that EPA hasn't closed down industry at all, that there is a perfectly easy way for new industry to build new plants. It's called "offset." New plants can be built if EPA can be convinced that some existing facility, which pollutes though is in compliance with EPA standards, will reduce its pollution by an amount such that the combined pollution of the old plant and the new plant will be less than the presently legal pollution produced by the existing old plant as it is. But let's look at the so-called successes of the offset plan so far.

EPA will allow an automobile company in Pennsylvania to build a $350 million plant only if the plant doesn't go to a three-shift operation, as it wants to do, until it changes its paint formulation to reduce hydrocarbons and also until the state of Pennsylvania begins paving its roads with a new material designed to reduce hydrocarbons in the air. In this case, the trade-offs were worked out. But consider how little potential for additional offset agreements remain after the easy ones are "used up" in any given area.

Take a case in Long Beach, California, which illustrates the future off-set problem. It started with a dilemma when Alaskan crude oil could not get to the energy-hungry East and couldn't be consumed in oil-rich California. In 1974 Standard Oil of Ohio (Sohio) came up with a solution: to buy 800 miles of an old pipeline that had been used to carry natural gas from Texas to California and convert it to pump oil in the opposite direction to Texas and nearby refineries. Sohio would feed the converted pipeline from a new marine terminal unloading Alaskan oil from tankers at Long Beach. The oil terminal operation would cost Sohio a half-billion dollars.

Sound simple? Not so. Sohio could go (*Continued on p. 32.*)

SURVIVING THE BLACKBOARD JUNGLE

I AM NOT A RESEARCHER in the field of education. My leisure time is spent researching the field I teach. I do not cite educational studies. I cite my life—20-odd years of exhausting struggle in the junior high school classroom. I want to advise the young college student of the price to be paid, and I want to defend myself and my colleagues from the attacks, both implicit and explicit, coming from all fronts, according to which we teachers are largely to blame for the miserable state of education today. I want to set the record straight.

The debilitation in education springs from two interrelated problems. The first is the main context of education—that it is public, not private; and the second is the monstrous way children behave in the classroom. *Nobody* is *ever* going to solve any other problem in education until these two are worked out. No amount of research, no amount of money poured into the field, will do any good until society recognizes that these problems are fundamental and does something about them. As only one writer/teacher, I can do very little about changing the politics of public education, but I *can* apprise people of the proportions and the destructiveness of the second.

These two problems are interrelated because the public nature of education is one of the main reasons *why* children don't behave. Johnny can't read because he won't sit still, shut up, and *listen* to the teacher telling him how. Furthermore, under public education there is no way to *make* him.

Based on my 23 years of teaching experience, I would say that in suburban schools 50 percent of the children are so badly behaved and to such an extent that they don't belong in school. Another 5 percent would be redeemable with expulsion, 20 percent would respond to skillful disciplining, and only 5 percent are properly behaved. In the city ghetto schools, the percentage of delinquency is much higher.

Teaching is a high-risk, hazardous occupation. In New York City, a teacher is *expected* to break up five or six violent fights every day in his or her area alone, yet the children involved are allowed to continue coming to school. If a teacher, in a desperate attempt to "do something" about it, tells the press about the extent of the crimes inside a school, he or she is summarily disciplined by being fired; or worse, she has her schedule changed and finds herself assigned to the most retarded and violent classes in the school.

The most tragic aspect of the New York school system is the fact that nobody really knows the extent of the rape, murder, arson, and most particularly the assault going on in the city schools. Each principal knows only what goes on in *his* school, and he is afraid to report more than a small fraction of it to the Board of Education because if he honestly reports *all* of it the board responds by asking him why he isn't doing his job. So the Board of Education has absolutely no accurate idea of the amount of crime in the schools.

Likewise, if a teacher reports too many incidents to the principal or assistant principal, she is asked what she did to precipitate the problem and is told that she is not doing *her* job. Again, since the city system is controlled by administrative vendettas, the principal may implement his revenge upon her by changing her assignment to the worst children in the school. (Schools are segregated by reading scores and emotional maladjustment. For example, 9-1 is a class in which all of the children have a ninth-grade reading score and are psychologically fairly well balanced; 9-2 has a lower average reading score and a few emotionally unbalanced children. When you get an assignment to teach 9-17, you are merely providing custodial care. It is not possible to teach these children *anything*. Moreover, walking into such a classroom is physically dangerous. If you get anything from 9-5 on down, you are dealing with animals.) A principal of such a school is lucky if he has any appreciation of the *real* amount of crime in his school.

There are other physical tolls the teacher has to pay. She is on her feet all day and can't even go to the bathroom, and she has to scream and yell. Try screaming all day and see what it does to you by 3:00 PM. An opera singer is exhausted by a three-hour performance—a teach is on stage for seven hours. No wonder we are drained at the end of the day.

But physical exhaustion is the least of the three prices we pay. The psychological pressure is the greatest. Recent research has shown that many (I would say *all*) teachers suffer from "combat neurosis"—they display the same symptoms that soldiers show as a result of an extended time on the battlefield; which means that we are actually, in fact, fighting an unrecognized *war* in the classroom. The suicide rate, the rate of nervous breakdowns among teachers, is the second highest of all occupations.

The children play a game in the classroom called "get teacher mad." And believe me, they get to you. A teacher says to a class: "Please open your books to page 16," and the following happens:

Sam: "Hey, get that Frank, open your books to page 16."

Frank: "That's right, Sammy, we got to open our books to page 16. Hey, Judy—you got your book open to page 16?"

Judy: "Why don't you shut up Frankie. Open your own book to page 16." (*Raucous laughter*)

Frank: "Naw, I don't wanna. Hey, George, wanna open your book to page 16?"

George: "Naw. I like page 17 better—it's got a nice picture on it. Hey, teach, can't we open our books to page 17 instead?" (*Raucous laughter*)

Mark: (*Standing up and prancing like a woman*) "Hey, boys and girls, would you *pu-leeze* open your books to page 16?" (*Laughter*)

Michael: (*Throws his pencil or book at Mark*) "Sit down, ass-hole, you ain't no teacher."

Mark: "But I got my book open to page 16—you ain't."

Michael: "Who says so, mother-fucker. I do so."

Mark: "You saying something 'bout my mother?" (*Moves to get up*)

Judy: "Hey, you guys, can't you do like the teacher said? Open your books to page 16. She said *please* didn't she?"

Bobby: "Yeah, that's right fellas, she said *pu-leeze*." (*Starts dancing down the aisle*) "*Pu-leeze* everybody, she said *pu-leeze*. Ain't that nice?" (*Laughter*)

Classrooms have become a battleground, and teachers' only weapon is to go on strike—inside the classroom.

by Theresa Hale De Soubiese

John: "Girl."
Meyer: (*Going up to the teacher*) "Teacher, I ain't got no book. I left it in my locker, can I go get it?"
Tom: (*Going up to the teacher*) "I ain't got no book either, can I go too?"
Jeff: "Me too, O.K. teach? I'll help them find it." (*Starts to move out of the door*)
Mary: "Teach, can I go to the bathroom?"
Sally: "Yeah, me too."

And on and on and on. Remember there are 30 of these kids in the classroom, so the above sketch only scratches the surface as far as reproducing the pandemonium that ensues. If you yell "Quiet down" at them, they will only start yelling "Quiet down" at each other, and love it. They've succeeded at their little game. They've won. They got you mad.

What does it do to the teacher's esteem when half the students imitate every word she says and get away with it? (She can't send one-half of the class to the assistant principal.) What does it do to the teacher's self-respect when she is told "G.F.Y." 50 times a day, and there are no consequences for the child? (He remains in the classroom or is suspended for only three days at the most.) What do you usually do when someone tells you to G.F.Y.? You excommunicate him from your life. But you *can't* in the context of a public school. What does this do to a person's image of himself, to his or her deeper personal identity? What is the psychological cost of being forced to repress this anger? What is the *moral* cost?

Public schools are demoralizing. The altruistic premise of the Judeo-Christian ethic that everybody can be taught or that everybody can be cured is the basic premise of every public school system and is complete nonsense. Students and teachers alike are demoralized by the public system and the behavior it engenders.

Students are suspended three days for smoking, and they are *not* suspended for stealing or lying. What does that teach a child? That smoking is more immoral than thievery or faking reality. Students are suspended for a few days for a host of reasons—but we adults *initiated force* against them to make them go to school in the first place. *The only discipline system we have is basically contradictory.* When a child sees this kind of irrationality on the part of adults, what does this do to his sense of moral values? When a child sees that he gets more attention from teachers by being bad or stupid (some teachers have only four or five students in a class), what does this do to his incentives for learning?

When an upright teacher sees what kinds of moral lessons are being taught to children in his school, what does that do to *his* sense of morality? When teachers are forced to lower their standards on pain of losing their jobs, what kind of "moral" choice is being offered to them? When teachers see little kids shaken down in the bathroom and beaten up in the halls by other students, is it any wonder that they are demoralized and their values traumatized? When a hard-working teacher sees that some teachers have only four or five students in their classes all day (EMS, or crisis classroom), when he watches a guidance teacher spend the whole day seeing individual students on a one-to-one basis, or when he sees the audio-visual aids man sitting at his desk reading the paper and smoking his pipe all day, he realizes that a few clever (?) people have cut out nice little niches for themselves that amount to on-the-job retirement. What does this do to his sense of justice? *He* has to work with 150 every day. What is it that *teachers* learn in public school?

It will take a strike to solve a problem of this magnitude. A strike is the only weapon teachers have, and since the Taylor Law doesn't allow striking *outside* the classroom, the solution is to strike on the *inside*.

Yes, my advice to teachers is to go on strike in the classroom: water it down; provide no challenge; give no meat. You can't teach them anyway, so stop trying. Make the school building a meaningless shell. Stop *working* so hard. Provide "experiences" at a simplistic grade level—at least four grade levels below the one you teach. Make it *easy* for them; have them fill in the blanks with the patently obvious. Don't lecture; pass out a xerographed sheet and tell them to read it to themselves silently, then test them on it with another sheet. Don't bother to mark them; just collect them—the children won't remember or care. Keep the floor clean—it's less suspicious. Have rap sessions ("oral discussion") about various programs on TV—since they know a lot about TV, let them teach *you*. Read the newspaper at your desk—when they see that you are busy, they'll stop bothering you. Allow them to talk as much as they please. If someone complains, tell them you don't know how to make them stop (which is true). Don't raise your voice to project to the back of the room; speak calmly and quietly, and if half the class doesn't hear it, who cares? Certainly not the children or their parents, so why should you? Don't wait for somebody else to force you to lower your standards; eliminate them now yourself. If somebody disputes the way

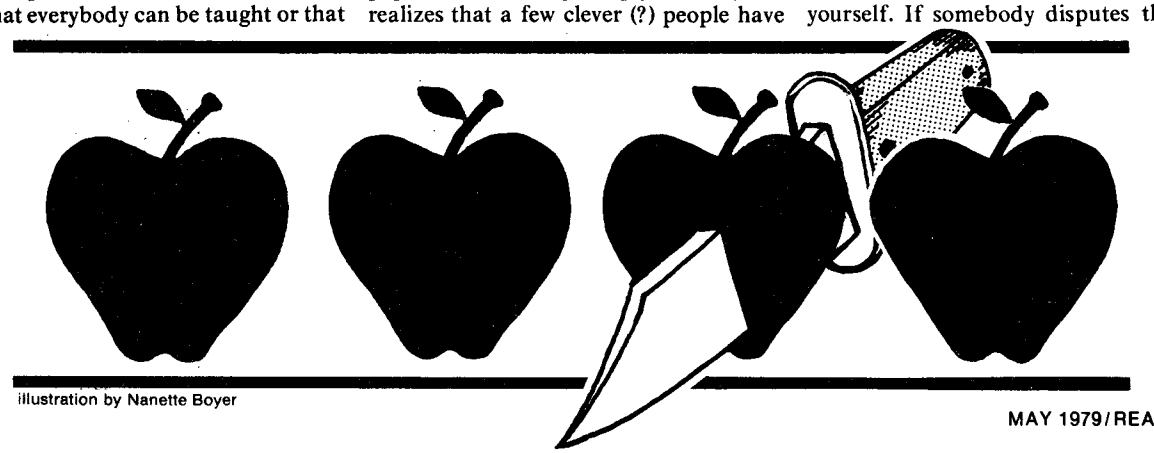


illustration by Nanette Boyer

you're handling it, tell him you want the children to "find their personal identity" or "enhance their self-concept." Give everybody an A in everything they hand in —that way the children will tell their parents that they like your course.

Join the teachers' union and be active in it—even though it means making common cause with powerful and uneducated truckdrivers—*before* you get tenure. Then if they refuse to give you tenure, you can complain and claim that your union membership was the reason they denied you tenure. The union will back you up. The merit system is a revolution away, and why should you be a martyr to a cause? Get yours—everybody else is.

When a fight breaks out in your classroom, take your time about breaking it up. Let them hurt each other a little bit; it takes two to make a fight, and they'll think about it a little harder next time. If the principal complains, tell him that you were afraid of getting hurt yourself. If you *do* get hurt, take a vacation for three months—society has decided that workmen's compensation will cover you, and you paid your taxes.

Absolve yourself of all responsibility for discipline problems—send them to the assistant principal. Reject responsibility for the children's negative behavior. They're not *your* children, and you are not a psychologist. You were not taught in college how to handle young criminals; you took no such course, and yet the State awarded you a certificate to teach. Furthermore, there was no such clause in your contract. If the assistant principal complains about how many you are sending down, tell him it's difficult to teach subject X with such a large class, and offer to "teach" a crisis classroom next year or a PM detention room *this* year without extra pay. *Agree* with him—yes, the children *are* awful bad. You see, if you allow the children to talk, you *won't have* much of a discipline problem. That's the way it's already done in New York City. The teacher walks into the classroom and says, "OK, those of you who want to rap, go to the back of the room; those who want to learn subject X, come to the front of the room." Five or six come to the front, and the rest go to the back.

Never holler at the children to shut up because (1) they won't shut up anyway and (2) you'll only antagonize them and make your discipline problems worse. After a few weeks you'll get used to the noise and won't notice it. If your principal complains about the noise, ask him to teach you how to control it. If he's so stupid as to make a suggestion, tell him you tried it and it didn't work.

Don't stand up in the front of the classroom to lecture. Ask questions, conduct a discussion, or *teach*. There is no reason in the world why you should place yourself in a position whereby you and the knowledge you represent can be made the butt of their jokes and insipid laughter. Knowledge should not be laughed *at*. Anything less than this, and you prostitute your profession.

For a teacher today, remaining moral is a vastly difficult task. It requires rigid adherence to and awareness of context. Never forget that education is public—or you're sunk. You won't survive. Because of the constant psychological bombardment, never fail to make a moral judgment—it's the only way to remain sane.

Make it clear to everybody and anybody who will listen that you will not discontinue this strike until and unless teachers begin to receive a little simple *respect* from the children, until parents begin to take responsibility for their children's behavior in the classroom and teach them to shut up and listen.

There was a boy, several years ago, Edwin X., who put a plate of feces on a teacher's desk with a candy bar stuck in it. He was 17 at the time. He is now 22 and lives next door to me in my apartment complex. He is now beginning to take part in community activities and is teaching *his* values to a Little League baseball team. He thinks his plate of feces was, and is, funny. What will happen when Edwin X gets on the Board of Education in a few years? Will he think that such actions are simply juvenile mischief, and condone them? Student behavior had better be improved upon soon, or it will be too late, because the new, younger generation won't see the necessity of it when they come of age and join the establishment.

As teachers, we cannot underestimate the size or the location of the war we fight. At a time of history when dedicated teaching means to perpetuate the continuing evils in education, the better people don't. We must remove our sanction, man the barricades, strike.

Therese De Soubiese has been teaching for 24 years.

Metzger

(*Continued from p. 29.*)

ahead only if it could create, by negotiation with other industries that were polluting at legal levels, a situation whereby building their new terminal would more than offset the pollution that it would create. Here's the deal: Sohio pays $78 million for the construction and 15-year maintenance of a new scrubber for a Southern California Edison smokestack, emissions from which are currently in full compliance with the law. Sohio pays another $5 million to 13 local drycleaners —also in compliance with California's strict air-pollution laws—to help them reduce their hydrocarbon emissions.

But even that wasn't enough. Sohio had to depend on the favorable outcome of a *public referendum* in Long Beach to permit the city to lease space to Sohio for its terminal. And it needed more than *700* federal, state, and local permits to go ahead. On March 13, 1979, Sohio announced it was abandoning the venture because of "project-killing delays by the government."

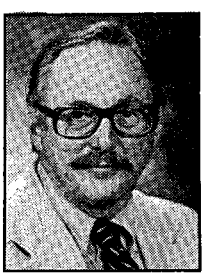
More important, consider that Sohio's offset deal would have just about used up any real potential for future industrial growth in that area. What could another company do? Buy up and close down every dry cleaner in Long Beach in order to obtain their existing "pollution rights"?

Offset potential is limited and will only delay the inevitable—a shutting down of all new industry across the United States.

SMALL BUT POWERFUL

Just as a $20 million complexity like an airliner can be taken over by a single terrorist with a Saturday Night Special, so can a small determined group of spoilers, delaying energy production across America, bring the whole country to its knees in only a few years. The anti-nuclear, anti-energy environmental issue is tailor-made for those who seek massive and rapid political change in an otherwise stable society.

Attempts to meet energy demands are discredited with scare tactics and denounced as morally unacceptable degradations of the environment. Then, when the shortages thus produced do finally occur—and massive unemployment and social disorder inevitably follow—corporations, capitalism, and representative democracy itself will be blamed by those vocal Coercive Utopians for problems that, supposedly, only Nader's "consumer owned economy" can solve.



H. Peter Metzger works in public affairs for the Public Service Company of Colorado. He has degrees in chemistry and biochemistry. This article is adapted from his article/speech presented in various forums.

BOOM TIMES IN CASUISTRY 101

by Peter Fasolino

ONE NIGHT LAST WEEK I called up a friend of mine, an associate professor of philosophy, and invited him over for a few beers. Harold and I like to get together once in awhile to talk about baseball, usually about the 1957 Yankees. (I have another friend, Max, a New York City sanitation man, whom I call when I want to pursue a rational investigation of the truths and principles of being, knowledge, and conduct. What Harold doesn't know about baseball, Max doesn't know about philosophy; so I can usually hold my own in either discussion. My therapist tells me this is absolutely essential.)

My friend the philosopher refused to come. "Call up Max," he suggested.

"But I want to talk about baseball, not philosophy. Max would kill me on baseball." Harold said nothing. "Besides, I've got a cold case of Pabst in the refrigerator."

"I'll be right over." In college, Harold's favorite pastimes had been drinking beer and talking about philosophy. He had, in fact, decided to become a philosophy teacher only after reconciling himself to the fact that no one would pay him to drink beer all day. (Harold will usually come over for Pabst. Max will come for nothing less than Lowenbrau. After seven years with the New York City Sanitation Department, he has acquired some very expensive tastes.)

"So, Harold, they keeping you busy at the university or what?" I asked somewhat doubtfully when he arrived at my apartment. For three years now his only summer course had been Casuistry 101. During that time very few people had demonstrated much interest in riding on hot subways to attend lectures on casuistry. Harold's lecture notes began to gather dust. Harold himself had gotten rather dusty in past summers. Tonight, though, he looked worn to a frazzle.

"This year," Harold said slowly, with a trace of disbelief, "I've got 227 students in Casuistry 101."

I whistled softly. "How come it's so popular all of a sudden?" I asked, forgetting for the moment my carefully researched anecdote about an incident involving Casey Stengel and Don Larsen, which had occurred in 1956 during an exhibition game against the Cleveland Indians.

"Well," Harold began, "years and years ago casuistry was a sort of a priori application of general principles used to determine ethical courses of action in any given situation. Oh, there were some arguments over details between the Tutorists and the Laxists, and the Probabilorists didn't always see eye-to-eye with the Aequitrobalists. But basically they all used casuistry as some sort of a priori guide to be applied in moral decision-making." Harold paused for a sip of beer. "On the other hand," he continued, "what we have today is Retroactive Casuistry."

"Retroactive Casuistry?" I got myself another beer. "How's that different from 20-20 hindsight?"

"Night and day, old buddy." The Pabst was clearly beginning to get to him. "Night and day. With hindsight you look back and see what you *should have* done. With Retroactive Casuistry, you look back and demonstrate that whatever you actually did was ethically impeccable."

I was beginning to see where it could be pretty valuable.

"You know," Harold mused, "more than half of the class is made up of pre-law and government majors."

"Pre-law I can understand," I commented. "I'd imagine that when you *know* someone is guilty—say a rapist—and you get him off, you'd feel terrible on payday unless you could do an impressive moral tap dance about the importance of due process. But what about the government majors?"

Harold opened another beer and put his feet up. "I guess they want to be sure that during their political careers they will always be able to explain to the voters that their actions—no matter how self-serving they might appear to the untrained observer—actually proceeded from the highest moral principles." Harold has always hated politicians and congenital punsters.

"Well," I asked him tentatively, "do you think it will work?"

"Will it work?" He was starting to swagger already. I was sorry I had asked a question instead of swinging right into my Don Larsen story. "Will it work? Wake up and smell the coffee, boy! What about Tong Sun Park?"

"The Korean influence buyer?"

"The very same. When that first broke, Congress tried to wriggle off the hook with a little retroactive casuistry."

"How so?"

"They explained that they thought Park was a businessman—and certainly there's no harm in accepting tokens of affection from a businessman. Only later did they learn he was a Korean agent. Instead of being influence peddlers, the congressmen become innocent victims of unscrupulous Oriental inscrutability. Guiltless dupes. Overtones of the Yellow Peril and so forth."

"Very neat," I murmured, wondering why I had one beer in each hand.

"The pay raise! The pay raise!" Harold was shouting now, waving his arms wildly. "Tip O'Neill says if you don't have the guts to support it, get the hell out of Congress. To the skilled casuist, avarice becomes fortitude."

"Sounds more like 'The Emperor's New Clothes' to me," I countered glumly.

"Don't be such a spoil sport," he admonished. "Why don't you just get into the spirit of things?"

I didn't want to get into the spirit of things. I wanted to find one good example to refute Harold. It took me quite awhile, but I finally found one. "Jimmy Carter owed no federal income tax in 1976. But he paid $6,000

(*Cont. on p. 37.*)

RIGHT TO WORK

What is it? Who has it?

by Thomas R. Haggard

"THE RIGHT TO WORK," said Mr. Justice Douglas, "[is] the most precious liberty man possesses." Anyone who prizes political liberty will no doubt sympathize with this—for good reason: human life represents the highest value; and without work, whereby we expend our energies to seek and find what is necessary for the continuation of life, this value cannot be realized.

Yet state "right-to-work" laws are frowned upon by many who have been ardent supporters of liberty—for example, by most who call themselves libertarians. The reason for the opposition seems simple enough, also: these laws, which prohibit employers and unions from agreeing to make union membership a condition of employment, are seen as yet another instance of governmental intervention in voluntary human associations.

What is happening here is that the term *right to work* is being used in two rather different senses. The apparent conflict is not purely semantic, though. At a deeper level, there is a close but complex relationship between the two notions of right to work. When brought out into the light of day, this link suggests that opposition to right-to-work laws is in fact inconsistent with a belief in the right to work as a basic liberty. But there is a caveat: libertarian support of right-to-work laws must be conditional or provisional.

WORKING RIGHTS

What is the right to work?

In a modern industrial society, it is through the complex legal and social relationship known as employment that most people obtain what is necessary for their subsistence. Under this arrangement, the owners of natural resources and the means of production cooperate with the possessors of various physical and mental skills for *their* subsistence. One party to this arrangement is commonly known as the employer, or management, and the other as employees, or labor; but the relationship they enter into properly represents *work* for both of them.

Within this context, the "right to work" is merely a specific form of a broader right, that of contract. But the general right to contract and the particular right to work are both widely misunderstood. Just as "freedom to live" has been distorted by the political altruists into a moral and legal entitlement to have others provide for you the necessities of life, so also is the right to work commonly thought of in terms of *someone's* obligation to give you a job—exactly *who* being irrelevant, as this is said to be the duty of "society" itself.

This, of course, is poppycock! The right to contract *per se*—for work or for anything else—is necessarily a joint, or bilateral, right. It exists only when there are two or more potential contracting parties, and it comes into play *only* when two people mutually agree to certain things; *together* they then have a right against the rest of the world to consummate and enforce this agreement.

Broken down into its individual components, which is really the more important way of looking at it, the right to contract/work amounts to this: from the perspective of the two contracting parties vis-à-vis one another, one has the right to offer *to work* or to offer *work*, and the other has the right to accept. And of equal importance, each also has the right to decline to offer or accept—absolutely, or until and unless certain conditions are met. And since this constitutes the exercise of a right, neither a person's refusal to contract with another, *whatever the reason*, nor the insistence on certain terms, *whatever they may be*, can ever be considered a violation of any other right (the principle of the noncontradiction of rights). So an exercise of the right to contract/work can itself never be considered an act of coercion, as that term is used to describe conduct that injures other people in such a way as to justify a forcible response.

Moreover, since law in its essence merely represents a statement of the circumstances under which persons in society, through their various agents, are going to exercise *force* against individuals within that society, it necessarily follows that the exercise of the right to contract/work as described above should not, consistent with moral reason, ever be made against the law. For as Bastiat put it, "We must remember that law is force, and that, consequently, the proper functions of law cannot extend beyond the proper functions of force." Unfortunately, where the right to contract/work is concerned, this limitation is widely ignored.

In the United States, the right to contract/work, in both its affirmative (offering) and negative (refusing) aspects, is violated on an almost wholesale basis by a plethora of federal, state, and local laws. Hardly any kind of contract has its terms

more extensively regulated by law than does that of employment.

A person, for example, who is willing, even eager, to contract to work at a rate below the so-called minimum wage is prohibited from doing so. The result? He or she often ends up with no job at all! Similarly, other terms of the employment contract—hours, mode and method of payment, duration, fringe benefits, retirement options, working conditions, etc.—are often set by law, and the parties simply have no legal option to contract for anything different.

The individual's right to *refuse* to contract for work is also subject to wide abuse. The private employer is routinely prohibited from making employment choices on the basis of race, color, religion, national origin, physical disability, sexual predilection, or, potentially, for any other reason the Sovereign, in His Majestic Wisdom [*sic*], might happen to find offensive. Discrimination on these bases may (or may not) be completely irrational, if not morally reprehensible; one only needs, for example, to read Ayn Rand's marvelous little essay on racism to appreciate anew the perniciousness of that kind of thinking. But good or evil, wise or foolish, an employment choice that is made on this basis does *not* impose that unique kind of harm that, from a moral perspective, justifies a response of force—under the aegis of law or otherwise.

This is why such things as the Dade County ordinance and other so-called civil rights laws are properly opposed—not because Anita Bryant is necessarily right about homosexuals or Governor Bilbo about blacks, but because the right to contract for work includes the right to be "one's potty little self" in choosing one's employees *or employer.*

And this is the meaning of the "right to work" in its broader sense.

A CREATED RIGHT

What about "right to work" in its statutory sense?

The most prevalent feature of state right-to-work laws is that they prohibit an employer and a labor union from including in a collective bargaining agreement a so-called union security provision—a requirement that all employees become and remain members of the union as a condition of continued employment. These laws create a "right to work" in the sense that an employee or prospective employee who is not a member of the union now has an affirmative right to be hired *if* the only thing standing in the way of his being hired would be his nonmembership in the union. Right-to-work laws are in this respect analogous to civil rights laws that give blacks or women an affirmative "right" to the jobs that they would have had *but for* their race or sex.

At first blush it would appear that this form of right to work is grossly inconsistent with the broadly considered right to contract/work. Since an employer and a union, in negotiating a collective labor agreement, should have the liberty to contract for whatever terms are mutually agreeable—including a term whereby the employer agrees to hire only persons who will themselves agree to become and remain members of the union—and since employees have no unilateral right to be hired on terms of their own choosing, it would appear that libertarian opposition to right-to-work laws is fully justified. But it's not so simple as this.

This opposition to right-to-work laws founds itself ultimately on the notion that a collective bargaining agreement, of which union security provisions are but a part, is a "contract" the sanctity of which must be preserved. But there are two difficulties with this premise.

CONTRACTING

First, is a collective bargaining agreement a legitimate contract—a set of promises that the State is justified in using its power to enforce? Clearly, not every promise, when breached, warrants a forcible response. If I say (I "promise") that I will go to town tomorrow to buy a pair of shoes, but don't do so, in the normal instance neither the shoemaker nor anyone else is justified in using force against me, even though he may have been "harmed" in an economic sense as a result of my change of mind. A breach of this kind of promise may mark me as an untrustworthy and irresponsible fellow, but the appropriate sanctions are social rather than legal.

The law is justified in stepping in only when a breach of promise has the effect of wrongfully depriving another of his or her property—using that term in its broadest sense. And this wrongful deprivation takes place only when something of value has been given in return for the promise, this something usually being yet another promise. This exchange—that is, the two promises, each of which has a value sepa-

rate from the value of the promised conduct itself—gives rise to a true contract, the breach of which justifies a forcible response.

But it is very doubtful that collective bargaining agreements qualify in this regard. Typically, the employer promises to pay the agreed upon wages and maintain certain working conditions for a fixed term. But what does a union, in either its capacity as an agent for the employees or as an independent legal entity, promise in return? Usually nothing, although it is often argued that the union/employees' promise not to strike during the term of the agreement qualifies as such a promise.

But what is a strike, really? And what, then, is the meaning of a promise not to engage in one? This is not as easy to settle as one might think.

STRIKING

It makes sense to view the concept of going on a "strike" from the perspective of those engaging in the activity. What, exactly, are they asserting? Generally, it is not a "right" to dictate their own terms of employment. Rather, to the extent that the strike is directed against the terms being offered by the employer, the striking employees are merely saying, "That is not enough, and you *ought* to pay us more"—which is the assertion of a moral entitlement, perhaps, but not of a right.

But there is more. Strikers *are* asserting a conditional right to the job. They are telling the employer and the world at large that a certain job, in the abstract sense, is "theirs" and that no one else can or should fill it, even though they are refusing to fill it themselves until their conditions are met. And in practice, the picket-line aspects of most strikes are meant to prevent the violation of this conditional "right." They constitute thinly veiled threats of force against third parties who would deign to oppose the union. But the "right" asserted by striking employees is certainly not encompassed by the broad right to contract/work nor by any other within the libertarian galaxy.

Granted, this is all very complex, abstract, and thus highly debatable, but this much is clear: going on strike is *not* the same as simply quitting one's employment, so a promise not to strike is not the same as a promise to remain an employee for a fixed period of time—which *would* be sufficient to create a contract. And if striking in fact amounts to the assertion of a *non*-right, backed up by the threat to initiate force, then a promise not to strike does not represent the relinquishment of anything that rightfully belongs to the employees. Since nothing of "value" is being exchanged for the employer's various promises, no properly enforceable contract exists.

The upshot is that, to the extent that right-to-work laws declare that one of the employer's promises—that contained in the union security provision—will not be enforced, these laws are entirely compatible with preserving the sanctity of legitimate contracts. Even more, they are affirmatively desirable as a proper limit on the exercise of sovereign power, for *certain* promises—promises for which nothing is given in return—definitely should *not* be enforced by law.

That, then, is one reason why the liberty-of-contract argument against right-to-work laws should be rejected. There is, however, yet another reason, having to do with the second difficulty with the conviction that collective bargaining agreements are contracts to be honored.

Right-to-work laws are desirable as a proper limit on the exercise of sovereign power.

CONSENTING

A true contract represents a *purely* consensual relationship. The parties are free to select their own bargaining and contracting partners; each can choose what it will bargain and contract about; free-market forces determine the "bargaining power" of each party; and the role of the Sovereign is a neutral one, that of insuring that neither party transgresses upon the other in the process of reaching the agreement. Any agreement that emerges from this process is properly considered enforceable.

But as they exist today, most collective bargaining agreements, and the union security provisions that are contained therein, are not consensual in *any* of these respects! Federal law requires an employer to recognize, as the exclusive bargaining agent of all employees, the union that a mere majority of the employees have selected for this purpose; failure to bargain in good faith (that is, with intent to reach an agreement) with union leaders, however offensive they may be to the employer, is an unfair labor practice. The law, moreover, mandates the topics over which the parties must bargain, and on this list is the matter of union security. Although an employer is not actually compelled to reach an agreement on these terms, the manner in which the law regulates bargaining tactics and techniques makes it difficult for him to avoid agreement without being found to have bargained in bad faith, in violation of law.

As far as free-market forces are concerned, the very purpose of the federal law in this area is artificially to equalize the bargaining power that each party inherently has. Employers are prohibited from asserting their economic strength in a variety of ways, and unions are imbued with powers they would not otherwise possess.

In short, the role of the Sovereign in the negotiation of union security agreements is far from a neutral one. To the contrary, the coercive apparatus of the State is freely used on behalf of unions in their attempts, through union security agreements, to require working men and women to become union members.

Against this background, it is thus anomalous indeed to oppose right-to-work laws on the grounds that they interfere with "liberty of contract." The "contracts" these laws interfere with are almost totally a product of impermissible federal force, exercised in the first instance against employers, but with a detrimental impact being felt by individual employees who are indirectly coerced into joining the union by virtue of a union security agreement. Federal labor laws thus provide yet another example of how the fundamental right to contract/work is currently being violated. And because state right-to-work laws nullify a specific aspect of this coercion—the union security provisions of collective bargaining agreements—they *are* consistent with the right to contract/work in the broader sense.

CAVEATS

When all is said and done, however, right-to-work laws are not without their decidedly objectionable aspects. One can, for example, question the justification for the right-to-work laws that go beyond merely rendering union security agreements void and impose criminal sanctions upon the parties. It is one thing to say that the State will not enforce a particular promise but quite another to punish the parties to that promise, especially when the party against whom the sanction is most likely to be addressed—the employer—is usually *not* the one who brought up the matter in the first place!

But more important, even though *most* collective bargaining agreements are the consequence of federal force rather than of purely consensual processes, state right-to-work laws, which void this coercion, are indiscriminate in their application, tying the hands of the employer who would be quite willing to agree to and abide by a union security agreement. Likewise, many right-to-work laws not only nullify union security *agreements* as such but also prohibit an employer from unilaterally making union membership a condition of employment. In short, in this context right-to-work laws operate like any other so-called antidiscrimination statute.

In all of these ways, right-to-work laws *are* inconsistent with the basic right to contract/work. So what is one to do?

The ideal solution to the right-to-work dilemma is, of course, to amend the National Labor Relations Act in a variety of ways and also to reeducate the courts in the necessary elements of a common-law contract. This would render right-to-work statutes not only unnecessary but positively pernicious.

And "if frogs had wings"... Reform of federal labor law to make it consistent with the notion of a truly free society is not going to take place overnight, of course. While working toward this goal, it is important to seize every opportunity, however limited, to neutralize the more coercive effects of existing federal law. Union security agreements, which are almost entirely a product of federal intervention, operate in clear derogation of the fundamental liberties of thousands of workers who would not otherwise support labor unions and their various political and ideological causes. Right-to-work laws free workers from this coercion.

The objectionable aspects of these laws are, on the other hand, of mainly theoretical concern. Few employers, freed from the mandates of federal law, would find it in their self-interest voluntarily to agree to a union security provision or unilaterally impose union membership as a condition of employment. And the imposition of criminal sanctions is rare. True, even isolated instances of coercion are intolerable. But while working toward thorough reform we have to weigh the injustices involved, and the coercion of union security agreements is clearly a greater evil than that of right-to-work laws. And since active support of right-to-work laws necessarily involves exposing the underlying coerciveness of collective bargaining agreements and the federal laws that facilitate them, such support can only be promotive of the long-term advancement of liberty. ◻

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Fasolino

(*Continued from p. 33.*)

because he thought everyone who has benefited from the American system ought to pay some federal income tax. Show me the specious logic there," I concluded as defiantly as I could.

Harold grinned slyly. "The only guy I know who made 50 grand last year would have cut off his feet to pay six thousand and get away with it. Good ole Jimmy pays six, makes out like a bandit, and smells like a rose at the same time. Even Jody Powell couldn't keep a straight face."

We sat there for a while without talking. I could feel months of therapy being eroded.

"So, who else is in the class?" I finally managed weakly.

"That's what I can't figure out," Harold answered. "I've got 106 journalism majors. What the hell they would want with casuistry I don't know. Keep up with the politicians maybe."

"Keep up, schmeep up!" My flash of insight came so suddenly that there was no time to think of a more urbane expletive. "Those kids are taking your class to get the philosophical underpinnings for the suits of shining armor that journalists have taken to these days. I understand that armor is very uncomfortable without the proper lingerie."

"Now wait just a minute—don't you think they deserve that suit of armor just a little bit? Look at Watergate. If it wasn't for the news media, that whole mess would have been swept under the rug. It's just like Saint whats-his-name and the dragon."

"My dear Harold," I countered grandly, "that is a hackneyed conclusion acquired not by logic but by osmosis." I dug around on the coffee table for an article by Eugene McCarthy. "Listen to this. 'The press had generally accepted and approved the methods of the *Washington Post* in its investigation of the Watergate case, even though the methods of the President's men and the method of the *Post*'s men differed only slightly.... Both the President's men and the *Post*'s men justified their methods on the grounds that they were serving a higher purpose.' What do you say to that, Harry my lad?"

If he had been thinking clearly, he could probably have made the justification of the means by the ends sound splendid. Instead he became emotional.

"You must be drunk," he snarled. As a matter of fact we were both pretty drunk by this time. "An unfettered press is the cornerstone of American liberty. Their cry is the cry of the people! The press is the unflagging guardian of our human rights. One week they shut down *Hustler*. The next week it'll be *Time*—and then what?"

"Nobody will have anything to talk about at cocktail parties?" It was just a wild guess, but Harold pretended not to have heard me. My assertiveness training was beginning to pay off.

"The press is the American citizens' last bulwark against big government and big business!" He was almost in tears.

"The news media *is* big business!" I was annoyed with myself (I should have said *are* big business), and so I lashed out even more viciously. "If there were no Walter Cronkite," I sneered, "Metamucil would have had to invent one."

At this blasphemy, Harold rent his garments, poured his beer over my head, and stalked out. I haven't seen him since.

On the whole, though, as I look back, I am pleased with myself. My therapist agrees that I have made great progress. He assures me that in another couple of weeks I'll be talking baseball with Max. And my assertiveness coach assures me that before I know it, I'll be ready for the subway. ◻

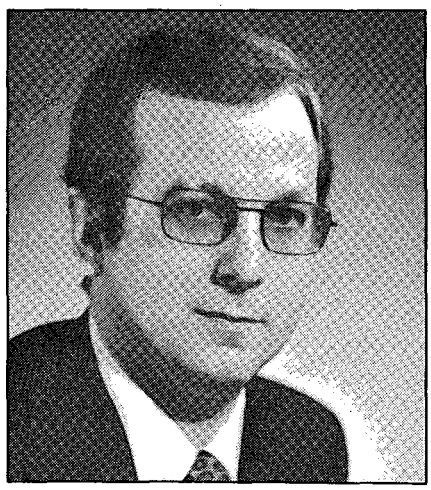
Peter Fasolino is a free-lance writer.

Coming Next Month:

June will bring REASON's sixth annual Financial Issue—a special issue on surviving economic crises, filled with sound thinking by some of today's leading financial advisors. Among the contributors are Nicholas Deak writing on inflation and currency collapse, Walter Perschke on profits in rare coins, Howard J. Ruff on preparing for economic collapse, Dr. Harry D. Schultz on currency speculation, and Mark Skousen on hiding and protecting your assets. The issue will also include advice and commentary on three of today's hottest investment fields: diamonds, commodities, and Swiss francs. Plus two articles on the larger context in which investment decisions must be made—one dealing with the confusing world of money-supply trends and the other focusing on *recovery* from hyperinflation. Among the books reviewed in the issue are Henry Hazlitt's *The Inflation Crisis, and How to Resolve It* (reviewed by Hans F. Sennholz) and Jerome Tuccille's *The Optimist's Guide to Making Money in the 1980's* (reviewed by John Pugsley). For those with more than financial interests, the issues will still include all of REASON's regular departments and columns. Don't miss it!

The Specter of Credit Controls

viewpoint



Alan Reynolds

For a mere $5,000 of added salary, Alfred Kahn switched from deregulating airline fares to regulating all other prices. And even when he argued that guidelines would somehow prevent a "banana," Dr. Kahn was not so quickly hushed by the administration as when he hinted that it was considering imposing credit controls. After all, the element of surprise would be essential to such a game, since those who expect to be rationed out would otherwise rush to line up their credit in advance.

The White House has no legal authority to impose formal wage and price controls and only questionable authority to manipulate federal purchases and regulations to achieve the same effect. But the Credit Control Act of 1969 confers virtually unlimited authority on the president to decide who gets credit on what terms. In a period of soaring inflation and interest rates, some such gimmick might have considerable political appeal.

The Carter administration is now reaping the consequences of blatantly inflationary policies, and no graceful exit seems possible. If inflation continues to roar along at 9 or 10 percent, fueled by a reversion to sloppy monetary policy, people and firms will be eager to borrow and reluctant to save, putting pressure on nominal interest rates. In this situation, selective credit controls might be sold as a snake oil remedy for high interest rates or inflation. Never mind, for the moment, that selective credit controls can't have any such effect.

If money growth slows for a sustained period, businesses will find it hard to pass on soaring unit labor costs, thus forcing layoffs and consumer retrenchment. That would end the spending spree and create a buyers' market for supposed "hedges" that consumers might have to unload in hard times. Individuals and firms could have a hard time rolling over their debts in this situation, so credit controls might be sold as a way to divert credit into worthy hands—that is, toward those most likely to vote correctly.

Either way, the risk is real. Most risky of all, selective credit controls might substitute for general monetary restraint, taking us a giant step closer to the "banana republics."

The Credit Control Act of 1969 (Public Law 91-151) authorizes the president to instruct the Federal Reserve to "regulate and control any or all extension of credit." And the Fed may "utilize the services of . . . any other agencies, Federal or State, which are available and appropriate." Among other things, the Fed could license people to borrow or lend, set loan limits for any purchase of new or used goods, prescribe maximum interest rates and credit terms, set maximum ratios of loans to deposits or assets, and "prohibit or limit any extensions of credit under any circumstances the Board deems appropriate."

In his wildest fits of megalomania, even Mussolini would never have dared to go this far.

The problems that credit controls are supposed to solve are all the consequence of an excessive growth of bank reserves and currency and cannot be solved by measures that seek to shuffle the excess purchasing power around a little differently—even if that were possible. Inflation is high because money growth has fueled an 11.6 percent rate of increase in spending while production cannot possibly keep pace.

Real, after-tax interest is probably still too slow to dampen the insatiable public and private appetite for credit that the Federal Reserve has so generously accommodated over the past two years. A 10 percent mortgage rate is only 6 percent for someone in a 40 percent federal-state tax bracket (which includes most working families in California). So long as housing prices are expected to rise at a 14 percent rate, and mortgages can easily be refinanced if interest rates come down, a 10 percent nominal mortgage rate is about 8 percent less than zero. The same is largely true for business inventories and consumer durables. A believably sustained period of monetary restraint would reduce expected inflation, reduce credit demands, increase savings, and bring interest rates down.

The usual rationale for credit controls is to divert credit from corporations to mortgages and government debt. A ceiling on business loans, in particular, creates a captive market for government securities. Actually, corporate borrowing in the third quarter of 1978 accounted for less than 23 percent of all funds raised in credit markets by nonfinancial sectors; governments absorbed almost 27 percent, households about 40 percent.

The real threat to housing is not that mortgage funds will be unavailable, except where usury laws pinch, but that housing will become a relatively unattractive investment. With government and business scrambling for credit, relatively postponable purchases and long-term investments, like housing, are quite properly deterred by interest rates that are perceived as only temporarily high. Moreover, housing prices already incorporate considerable expected inflation, so the value of homes as "hedges" is no longer obvious.

A significant reduction in federal borrowing, which is not in prospect, would help lower real interest rates and shift money out of T-bills into savings and loans. But the effect of a less inflationary monetary policy would be ambiguous at this time—because both mortgage rates and housing prices would soften, and the latter effect would slow the tendency to trade up to a better house.

Credit allocation or rationing overestimates the power of regulations and underestimates the power of market incentives. Lenders want to maximize their return; borrowers want to minimize their borrowing costs; and both are clever enough to figure out ways to get together outside of formal, regulated channels.

The trouble is that such alternatives are relatively inefficient, or else they would prevail even without overregulation of banks and thrifts. So credit controls would impair the functioning of credit markets, raising transaction costs and interest rates.

Restrictions on the purposes for which

credit is used are likewise easy to circumvent, but at the social cost of greater inefficiency. Margin requirements on stock purchases, for example, don't keep people from taking out loans, ostensibly for other purposes, in order to free cash for such investments.

Suppose reserve requirements were raised for institutions lending to large corporations and lowered for those stressing home mortgages—essentially the plan of the so-called Lower Interest Act that died a timely death in 1975. Interest rates to large business would initially rise relative to mortgage rates. But life insurance companies, pension funds, other relatively unregulated intermediaries, and private individuals would all have a powerful incentive to pull deposits out of both banks and thrifts in order to get the higher yield available by lending their money to big business or other uses not favored by politicians. There are already plenty of instruments available for this purpose, such as corporate bonds and commercial paper, and more could easily be created through mutual funds or whatever.

So, financial institutions subjected to credit allocations would be placed at a competitive disadvantage in the competition for loanable funds. Both banks and thrifts could be expected to shrink significantly relative to all alternatives that are harder to control. To some extent this is already happening, due to regulatory costs. Since the end of 1972, demand and time deposits have increased 78 percent, but various private money market instruments (including commercial paper and money market funds) have grown by 226 percent.

Finally, there is a very real threat to individual freedom of choice implied in the mere suggestion that Washington's value judgments should prevail in the use of peoples' savings. Rationing credit according to political priorities is equivalent to controlling who shall be able to buy what —a very fundamental assault on the free-market principle that resources should be allocated toward uses that consumers value most highly. Although such efforts are likely to prove futile against the forces of market incentives, the whole idea that a law like the Credit Control Act could be passed says a great deal about the autocratic tendencies of our legislators. ◻

taxes

Klee vs. the IRS

It's nice to feel you're on the "front lines" of the more important battles going on today, even if it does mean that the pressure and harassment come down harder. Recently, after a stint as western director of the National Taxpayers Union, I found myself back in the kind of work I like best: individual income tax preparation and counseling. What's more, I was able to begin working with an individual of long experience in fighting for the rights of taxpayers everywhere. His name is Oscar Klee, and although he's not well known nationally, he has quite a few scars—and victories—from past battles in "the IRS Wars."

A political maverick and thorn in the side of the IRS for 30 years, Klee has fought that dangerous bureaucracy to a standstill on a number of occasions. For instance, in 1954 the IRS had their infamous "Coast Campaign" in northern California, designed to harass and intimidate income tax consultants and their clients. A number of such consultants were threatened with jail through various stratagems, unless they quit doing business and handed over their files to the IRS! This was (and is) because tax-preparation experts save people money by exploiting the laws used mainly by the wealthy. The IRS doesn't like that, and a number of tax preparers at that time actually did turn over their files.

But Klee? Before the struggle was over in 1954, he had somehow come into possession of the briefcase, daily diary, and personal tax return of one of the investigating IRS agents. The information found indicated that the agent was taking the very same deductions on his *own* tax return that he was *disallowing* with Klee's clients. The information quickly found its way into the newspapers and onto the airwaves.

Stung badly, the nasties at the IRS responded by sending six auditors and a supervisor into Klee's territory every year for the next four years (their power to harass and intimidate the general public was much more unrestrained in those days). Their job: to audit every one of Klee's clients every year and drive him out of business.

The campaign almost succeeded, as Klee's clientele was relentlessly trimmed back to his most ardent supporters. In addition, the IRS was finally able to intimidate nine of Klee's clients into signing papers indicating that he had "advised and counseled" them to take "false deductions." The "false deductions" were at that very time being adjudicated in the federal court system: having studied some law himself, Klee very well understood that the IRS virtually *always* interprets gray areas against the taxpayers. So he turned around and started interpreting them *in favor* of the taxpayers.

Notwithstanding the fact that the dispute was slowly moving through the civil courts, the IRS pressed its criminal case immediately, charging Klee with 11 felony counts of "advising and counseling." Just before the trial, and facing years of prison, Klee was offered a "compromise" by the Treasury bureaucrats: hand over his clients' files, get out of the business, and they'd drop the charges. Klee turn them down flatly.

The jury trial took five weeks in the San Francisco federal district court. When the jury came back with a quick not-guilty verdict, Klee's lawyer remarked that it was the first time in 37 years that he'd seen an entire jury stand beside the door to shake hands personally with the defendant and wish him luck in his continuing activities.

In the meantime, Klee was fighting back in other areas. Not long after the federal trial in 1958, he ran for judge in his northern California area—and won. Then in 1959 a federal court decided that the deductions Klee had been criminally charged with taking were legitimate under the law after all. That same year, in connection with a multiyear audit of his own tax returns—over a disputed sum of $19, with a $50,000 liability hanging over his head—the feds again offered Klee the same compromise. No, came back the answer. They gave back the $19 and declared the other years' audits closed.

Klee's star as a people's champion kept rising. In 1960 he was elected to the county board of supervisors in his area. That same year the Federal Ninth Circuit Court of Appeals—the court just below the US Supreme Court—validated Klee's reading of the law (over the same deductions he'd been tried for) with another victory. And in 1962 the Ninth Circuit came down with yet *another* taxpayer victory when it sided with Klee in his reading of the law against the IRS.

Through the '60s Klee pursued his aim: to save the working taxpayer from the depredations of the federal tax bureaucracy. Battle followed battle, and he inten-

(*Continued on p. 46.*)

books

Assessing the Criminal: Restitution, Retribution, and the Legal Process

Edited by Randy E. Barnett and John Hagel III.
Cambridge, Mass.: Ballinger. 1977. 404 pp. $16.50.

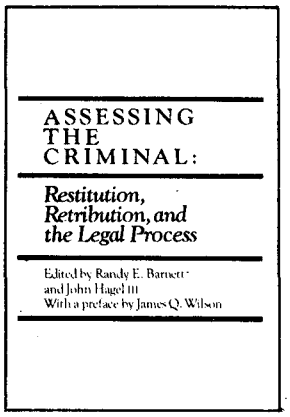
Justice and Punishment

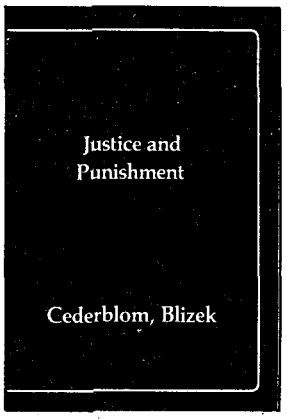
Edited by J. B. Cederblom and William L. Blizek.
Cambridge, Mass.: Ballinger. 1977. 220 pp. $16.50.

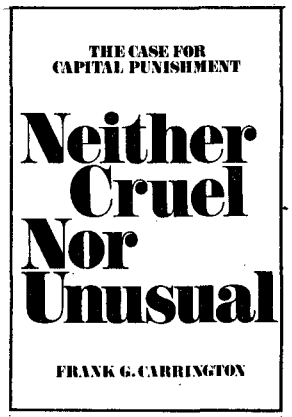
Neither Cruel nor Unusual

By Frank G. Carrington.
New Rochelle: Arlington House. 1978. 223 pp. $8.95.

Reviewed by J. Roger Lee







Recent times saw something of a reigning orthodoxy concerning the proper treatment of criminal wrongdoers. It was widely thought that they ought to be retrained, taught, changed, or *rehabilitated* so that they might then become productive, noncriminal members of society. Above all, the dogma went, criminal wrongdoers should not be punished—or, more correctly, no one ought to want to punish criminal wrongdoers. The desire to punish was viewed as base, demeaning lust for revenge. Punishment, per se, was thought to be counterproductive.

The rehabilitationists thought that the institutions associated with punishment should be used, not in a backward-looking way to punish for past wrong done to the victim, but to promote some social good—chiefly, the reduction of crime in the future. Clearly that end, the thinking went, could be realized by taking the incarcerated wrongdoer and restructuring his or her character so that he or she would lose the dispositions to criminal behavior that had led to crime in the past. This, it was thought, would certainly be more suited to the end sought than any sort of punitive infliction of suffering. And so it was the view that all "liberal" persons of "enlightened" sentiments should embrace.

For years, this was the reigning dogma of Western punishment theory. Now, that view is dead in intellectual circles. Alternative views of punishment are being presented and debated—hence the books under review here.

The Barnett and Hagel (B-H) volume is largely the proceedings of a Liberty Fund conference, "Crime and Punishment," held at Harvard Law School in 1977. The Cederblom and Blizek book (C-B) is entirely the proceedings of a symposium on criminal justice and punishment sponsored by the Philosophy and Criminal Justice departments at the University of Nebraska at Omaha in 1976, with the addition of a helpful introduction by Cederblom. These scholarly discussions serve, given the distinguished character of their contributors, as something of a bellwether of current thinking on the issue of punishment.

The Carrington book is a defense of capital punishment. It will put off those who believe that the institution of capital punishment ought to be eliminated, its style of intemperate bombast precluding them from reading through the caricature of their views and the attacks on them. And those who already are in favor of the death penalty do not need this book. In a way, though, it is another interesting piece of evidence about the current state of the debate on punishment.

The chief thing that will strike readers of the three volumes under review here is that the rehabilitation model of punishment has come to be discredited and eschewed by the intellectual community. James Q. Wilson writes in B-H: "Today the rehabilitative ideal is everywhere in retreat, though the institutional forms and burdens of pseudo-rehabilitation are very much with us." Martin Golding, in C-B, describes the "erosion of the rehabilitationist ideology that for so long has dominated sentencing and penology. Most rehabilitation programs, it is claimed, are sheer myth. . . . Many programs, where they do exist, are coercive and demeaning . . . and they have not been successful in reducing recidivism. More importantly, we do not know how to rehabilitate. . . ." Finally, Carrington, dripping vitriol all along, writes about those who in his view care more for helping murderers than for the plight of their victims. Carrington does not want us to direct our attention to the future good-making potential of the murderer. Rather, he wants us to kill the murderer as a just reaction to his crime against the victim.

Now that rehabilitationism is dead as a theory of the justification of punishment, what will take its place? John Hospers's essay in C-B is an instructive key to an answer to that question.

Hospers considers the two standard theories of the justification of punishment, utilitarianism and retributivism. And he discusses two recent theories that have been endorsed in libertarian circles—the restitutionist model, championed by Barnett and Hagel in their volume; and the view of Robert LeFevre that we should never punish anybody but should prevent crimes against ourselves by protecting ourselves from criminal activities directed at us.

Hospers rejects both of the latter views. He rejects LeFevre's because, among other things, "no matter how great the precautions we may take to *prevent* crime, it is humanly impossible for all of it to be prevented. And when. . . it happens anyway, . . . what do we do then? Just ignore it?" Hospers rejects restitutionism—which in Barnett's formulation (in B-H) is

the view that, since the victim of a crime has suffered a loss at the hands of a criminal, "justice consists of the culpable offender making good the loss he has caused." This is wisely rejected by Hospers because, among other objections, "all reference to *intent* would disappear if the restitution theory were put into practice....A person who kills someone through an unlucky accident surely doesn't deserve the punishment that another person does who does it from malice aforethought...though it makes no difference in the amount of restitution (the victim is equally dead both ways).... And if this weren't enough, what about threat of harm not yet done?"

It should be noted that Barnett, in his solo essay defending restitution as "a paradigm of social justice," replies with varying degrees of effectiveness to several criticisms, but the main objection of Hospers just mentioned escapes treatment. That is hardly surprising, for the criticism seems cogent.

Hospers rejects the more traditional theory of utilitarianism, as well. Applied to punishment, utilitarianism is the view that the right act of punishment is the one that will maximize good consequences in the future. In its concern with consequences it is thus, like restitutionism, a kind of teleological theory. Hospers rejects utilitarianism because justice can be flouted by social engineering in keeping with its advice to maximize good. He writes, "the question of what is *just* punishment and the question of what punishment will have *good effects* are two distinct questions and the answer to the first need not be the same as an answer to the second."

This is a decisive criticism when good effects are considered in this unqualified way. As I argued, however, in my essay in *The Libertarian Alternative* (edited by Tibor R. Machan), the best results in a theory of punishment will come from a fine tuning of the teleological or utilitarian theory by the addition of noncircular constraints that disallow treating the individual merely as a means instead of an end. No author in the present volumes seems either to envision or to embrace such a move (although Martin Golding does advise, in a general way, some sort of synthesis of the theories), so it is best to go on to note the theory that seems to have recaptured the imagination of the intellectual community.

Retributivism is back. It is the position that John Hospers endorses in each of his papers in the two anthologies. In C-B it is plain that he is settling on it as the best of a bad lot, but settle on it he does. Others do too. Edmund Pincoffs's piece on coordinating cardinal measures of punishment (such as time spans) with ordinal measures of the gravity of crimes can be seen as a defense of retributivism against a charge usually directed against it. Hugh Bedau endorses certain key claims of retributivism, and this paper can be seen as a first step toward the stronger endorsement of retributivism in his American Philosophical Association address in December 1978, "Retribution and the Theory of Punishment" (*Journal of Philosophy*, 1978). Martin Golding has kind things to say about it, and Richard Wasserstrom—who, like Hospers, seems to find each general theory of punishment defective—writes as if retributivism has the fewest problems. Last, it is possible to see Carrington's intemperate cries for death to the murderer in response to the death of the victim as a popular, unsophisticated manifestation of the retributivism revival.

I should not like to create the impression that this general shift to retributivism is enthusiastic. Anything but. But it seems to be the live theory of the day.

I close with a reservation. Retributivism is usually viewed as a three-part claim: (*a*) it is permissible to punish people if and only if they have done wrong; (*b*) the punishment should "fit the crime"; and (*c*) this is just, for the infliction of harm for harm done is just. John Hospers labors in C-B to show that retributivism is the claim that "guilt is a *necessary* condition for punishment," not that "guilt is a *sufficient* condition for punishment." Now although I find this wording confused, I think from the context that what Hospers is arguing for can be reconstrued as a denial of claim *c* above in the usual definition of retributivism. If I am right, then it is an unusual sort of retributivism, indeed, that is being argued for. It would take time and space I do not have here to argue for this claim, so I won't.

There is much of value in both anthologies that has not been noted here. The only step that I will take to rectify that defect is to mention that in B-H Thomas Szasz has a fine piece, "Psychiatric Diversion in the Criminal Justice System: A Critique."

J. Roger Lee teaches philosophy at California State University at Los Angeles. His "Reflections on Punishment" is included in the anthology The Libertarian Alternative.

The Right and Wrong of Compulsion by the State, and Other Essays

By Auberon Herbert. Edited and with an introduction by Eric Mack.
Indianapolis: LibertyClassics. 1978. 425 pp. $9.00/$3.50.

Reviewed by Charles Hamilton

What is the proper activity and extent of government? That was the major conflict in English politics in the 1800s. On the one hand, there were the great body of politicians, the Fabian socialists, and a host of lesser lights who saw virtually no limit to State intervention. On the other hand, there were...? Of course, that is the problem with our historical hand-me-downs: "losers" don't count. So we know little about the individualists of this period. We know little about their positive proposals, their criticisms of socialism, or their attacks on the State. It is a pleasure, then, to read this collection of Auberon Herbert's essays. The most widely read of the late-19th-century individualists, he connects us to our past. The essays are insightful and well written. Eric Mack's philosophical introduction is helpful in pointing out the threads of Herbert's thought.

Born in 1838 into a wealthy, aristocratic family, Herbert was educated at Eton and Oxford. He was a war reporter, a poet, a vegetarian, an archeologist, and, for a spell, a member of Parliament. Then he came under the influence of Herbert Spencer, who, as Herbert reports, "spoilt my political life.... I saw that no guiding, no limiting or moderating principle existed in the competition of politician against politician." Until his death in 1906, he dedicated his work to espousing Voluntaryism and the doctrine of self-ownership against the State and against what he called the "force relation." Herbert wrote prolifically for over 20 years—his writing ranging from pamphlets and hundreds of long letters in newspapers to *The Free Life*, which he edited from 1890 to 1901.

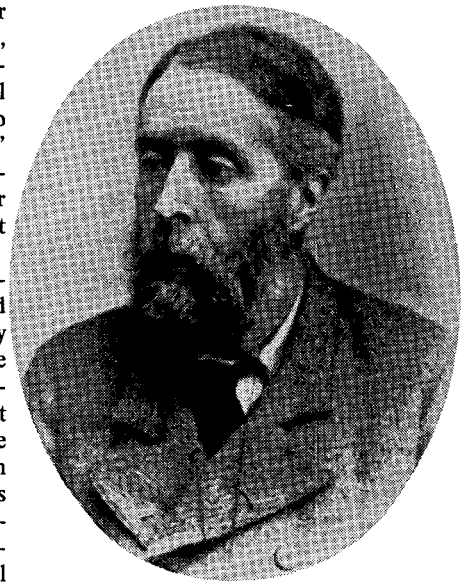
Seeing through "the great law-making machine," Herbert attacked the practice of politics, leaving no one unscathed. "The politician is only the unmatured socialist"—so he wrote in "A Politician in Trouble about his Soul" (the last part of which, "A Politician in Sight of Haven," is included in this volume). With this anti-political fable, he had hoped to sow in our minds "some seeds of discontent with the rivalries of parties, the tricks of practised politicians, and the sordid appeals to class interests which prevail in public life." The work was widely read and quite influential. Herbert clearly argued that there is

no right or wrong *in* politics, that no principles are applicable to the *practice* of politics, since it necessarily involves the use of force and the eschewing of responsibility.

These moral issues, the principles of life and freedom, concerned Herbert very much. In the title essay to this collection, he asks, "By what right do men exercise power over each other?... This question of power, exercised by some men over other men, is the greatest of all questions, is the one that concerns the very foundation of society." There is no such moral right to power over another person, no justification for the "brutalizing weapon" of the State. In "A Plea for Voluntaryism," he says, "We have to learn that our systems of force destroy all the great human hopes and possibilities."

The inescapable moral solution is recognizing the rights of self-ownership and the rights to property. These rights apply equally to all people. There is also the imperative of nonaggression, of remaining within the "moral relation." Herbert is a little ambiguous about defense *against* aggression, and his thoughts on the subject mirror many of the discussions among libertarians today. It is clear, however, that it is only through the free development of the diversity of each individual that people are happy and society will advance. As he says in "Mr Spencer and the Great Machine," progress can only come "by acting through the living energies of the free individuals... finding their own experience, setting before themselves their own hopes and desires, aiming only at such ends as they truly shared in common, and ever at the foundation of it all, respecting deeply and religiously alike their own freedom, and the freedom of all others."

Herbert was extremely sensitive to the problems of his day. He was as concerned with the *methods* of freedom as he was with the moral principles of freedom. And it is a minor fault of this volume that some of his better pieces on education, the land question, and unionism have not been included. Yet, while we don't see the application in these selected essays, the point is clear: "You can only mend matters by individualizing the individual." Free individuals and the voluntary associations they join have both the moral and economic ability to solve the problems of society. Herbert was, for instance, concerned about legal restrictions on land ownership in England. He was convinced that through the "magic of property" and "a free and open market in everything" England could arrive "at that blessed condition when a worker will be at the same time that he is a worker also a capitalist." No force was necessary. No State intervention was necessary. Just the dedicated use of freedom. And he was actively involved in organizations that bought large tracts of land and sold them in small parcels.



Auberon Herbert

Seeing no perfect foundation for the State, Herbert put forth his suggestion for a Voluntary State, serving *only* to protect each person from aggression. His Voluntary State would compete freely with other voluntary associations of society and would be voluntarily funded (what Herbert called Voluntary Taxation). Anyone could withhold support from such a Voluntary State. Anarchist or not, and whether or not we accept his terminology, Auberon Herbert's arguments can be seen in much of the current debate over limited government and anarchism.

Herbert's old friend Beatrice Webb once called him "the Don Quixote of the Nineteenth Century." What this famous Fabian socialist saw as imaginary windmills we know to be powerful and enslaving States and a totalitarian predisposition and temptation on almost all sides of any political debate. We are paying for her naiveté. And we have much to learn from Auberon Herbert's jousting with an all-too-real villain.

Charles Hamilton is the publisher of Free Life Editions, former publisher of Libertarian Review, *and the editor of a forthcoming collection of essays by Frank Chodorov.*

Charge

By Arthur Seldon.
London: Temple Smith. 1977. 224 pp. £3.50.

The Institute of Economic Affairs in London is surely the model of modern free-market educational institutions. In what can only be described as a ferociously unfavorable environment, it has developed a strong position in British intellectual and political life. A good deal of the success of this institution is the result of the work of its editorial director, Arthur Seldon.

In addition to his onerous duties as editorial director, Seldon is an active and prolific writer. *Charge* is merely the most recent book in his bibliography. The theme is very well stated by its title. Seldon suggests that we charge people for a good many things that are now provided "free." To the professional economist his arguments will not be new, although they are very well stated and in some areas involve applications that have not previously been made. But the main advantage of this book is that it is so well written that you don't have to be a professional economist to read it. It is primarily aimed at an English audience, but Americans will immediately see the application to the American reality.

Seldon argues that, insofar as possible, people should be directly charged for things that they use. He is, of course, aware of limitations. Programs to help the poor can hardly charge the poor for their relief checks, but it is possible to give the poor money and let them make their own decisions about how to spend it. Similarly, although in rather more complicated fashion, there are a number of "public goods" for which individual sale is unlikely to be efficient. Even among the public goods, however, it is frequently possible to control usage by a fee system, and these fees may be large enough to pay a sizeable part or even all of the cost of maintaining the facility. Seldon's discussion of the road system is particularly in point here.

Seldon does not claim that one can charge directly for every single government service. He does, however, argue—and argues very forcefully—that a very large percentage of the things that present-day governments do, could either be left entirely to private markets (perhaps with income supplements for the poor); or, if they are not suitable for private production, at the very least users could be confronted with a price reflecting the cost they inflict on other people by their use.

It is impossible to summarize this book because it is so rich in specific applications. Let us, however, take two examples. The first is a very, very traditional government service: provision of roads. In general in the United States the users of roads

are charged for them through the gasoline tax; and somewhat similar institutions exist abroad although, as far as I know, nowhere as well developed as in the United States. This type of charge, however, is relatively crude, since the actual cost of a car on a road varies a good deal depending on the road and the time of day. Seldon takes up some research done about 10 years ago by Vickrey on a more effective charging mechanism. The individual car can be equipped with a very small and inexpensive electronic device that, together with sensors built into the road, would permit a differential charging system. Someone who wishes to drive into New York during the peak congestion period would pay a high price that reflects the injury his presence on the road inflicts on other people who also want to use the road. At 3:00 in the morning, on the other hand, he would be charged only the vanishingly small cost of the wear and tear that his car puts on the street. This improvement would have a very considerable effect in producing more efficient usage of the streets and roads. By making usage more efficient, it would make it unnecessary to have quite such a large and elaborate road system as we need under our present system.

A second example concerns speedboats. In England as in the United States, there are a great many boats on almost all navigable waters. A good many of these boats are kept in the owner's garage on a trailer and are only delivered to the water when actually needed. The natural body of water, of course, is not produced by the government, although in many cases the government has spent a good deal in improving it. Seldon suggests that in those areas where the boats cause an inconvenience either to each other or to people who want to use water for some purpose other than running a speedboat on it, they should be charged. The charge would be on the whole an approximation of the inconvenience they impose on others. This would surely lead to more efficient use and reduce what is to many people a nuisance.

But these are merely samples. The book will repay reading either by the professional or by the interested private citizen.

—Gordon Tullock

Tax Target: Washington

By Gary Allen.
Seal Beach, Calif.: '76 Press.
1979. 156 pp. $2.45 (paper).

It's a pity that an entertaining and informative little paperback like *Tax Target: Washington* is going to be largely dismissed. But dismissed and ignored it will be, and by many of the people who most need to read it, to be sure.

The problem isn't that the book is poorly written. On the contrary, author Gary Allen makes the parade of horrors about taxation, government spending, inflation, welfare, bureaucracy, regulation, and so on almost fun—if it weren't so disgusting.

Nor is the book boring. On the contrary, this breast-thumping tome is succinct enough to be enjoyed with a six-pack of beer on a rainy afternoon. Not that the author always tells us things we didn't already know, or at least *suspect*—it's just that the horror tales are presented in a very readable and sometimes laughable way.

The catch comes in the *tone* of the book: author Gary Allen uses that shrill, right-wing delivery throughout that turns off the general public like a bureaucrat stomping on productivity. Not even an introduction by Howard Jarvis of Proposition 13 fame can rescue it from that. Which is too bad, because Allen is dead-accurate about every enemy of the productive that he excoriates, and his analyses are standard wisdom among those who oppose the State behemoth.

Nevertheless, for those of us who relish giving back to the government spendaholics, welfreeloaders, and low-down swine as much as they throw at us, Allen's will be a welcome addition to the book rack.

—Tim Condon

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movies

•Movie Movie •Violette •Superman

• The whole thing is pure corn, the clichés are so transparent that nobody could be fooled by them, the coincidences so unbelievable that nobody could take them seriously, the characterizations so stereotyped as to be almost stereotypes of stereotypes. Yet **MOVIE MOVIE**, consisting of two unrelated one-hour films set in the 1930s, succeeds brilliantly.

The actors (George C. Scott, Trish van de Vere, Eli Wallach, Red Buttons) are all at their impish best, but the real secret of the film is that it operates on two levels at once. On the level of straight narrative, even with the simplistic characterizations and the coincidences clicking predictably into place, it is a moving story, appealing to universal human emotions. On another level, the film pokes fun at itself, including the "unreal" characters and plots of the movies and musicals of the 1930s (one hilarious sequence is a takeoff on *Wings*, another on *Gold Diggers of 1933*), and there is quite a bit of double entendre that can be taken at both levels. The literal cake and the humorous icing are made to blend to perfection: a slight misstep in one direction or the other would have ruined this delicate structure, but it is sustained without a hitch.

This is the epitome of nostalgia films, and the audience eats it up, even applauding time after time, not only because the thing is so deftly done, but because it takes one back to another time—when life, though difficult, was simpler than today; when people's naiveté was greater; when heroes were white and villains were black and things always came out all right in the end. One senses in the audience reaction a longing to live in such a time once more, that they find in it a simple sincerity and purity of heart that are largely missing today. Only this would seem to explain why a film that pokes such lively fun at itself can at the same time move its audience to tears.

—John Hospers

• The fine young actress Isabelle Huppert, seen as an innocent young girl in *The Lacemaker*, is equally adept in her new role as a cold-blooded murderess in **VIOLETTE**, which is based on an actual case of a girl poisoning her parents in 1933. She was sentenced to be guillotined, her punishment commuted to life imprisonment by Petain, and total pardon granted by De Gaulle.

The case would be interesting enough as a documentary, although that's not the way famed director Claude Chabrol chose to handle it. He changes the time sequence constantly—for example, first a scene that shows us why she hates her parents, then the prison aftermath of the trial, then (recollected in prison) the murder itself. It is not always easy to tell whether a scene is a real incident recollected later or a projection of her hopes or fears in fantasy. The result is unnecessarily confusing: the physician tells her she has syphilis; the parents (thinking it may be of genetic origin) believe they too may have it; yet when the physician comes to dinner the matter is never brought up. One is tempted to infer that having syphilis is also a part of her fantasy, except that this would render a crucial incident—her giving the parents a white powder which is in fact a poison but which they take to be a cure for syphilis—totally unexplained. There is a great deal of material like this—the confusion between fantasy and reality, the failure to tie loose ends together—so that if he had not been told otherwise the viewer would think the film had been cut.

Still, there is some interesting characterization and some suspense in spite of the confusing warping of time frames and the blurring of external versus internal reality. In spite of the psychological orientation of the film, there is really no hint as to why this girl, who was only one of millions who were unhappy with their lower-middle-class parents and in love with someone poor with whom she wanted to elope, murdered her parents to get the money, whereas most other girls, however unhappy, did not. Why she remained to the end emotionless regarding her deed is also left as much of a mystery to film viewers as it presumably was to the French public when the incident occurred.

—J. H.

• "I stand for freedom, justice, and the American way," says Clark Kent (Superman) in a line that brings down the house. Presumably this represents the epitome of the wisdom that was fed into his brain while he was traversing space at the speed of light on his way to earth from the planet Krypton in a distant galaxy. If so, it seems hardly worth the trip.

Fortunate it is for the world that with his almost supernatural powers, our hero devotes them to good rather than evil. Even so, if he had as much intelligence as physical power, he would have realized that there remain certain problems: (1) He cannot distribute his beneficence equally everywhere: if there is a train wreck about to occur at place P, he can prevent that from happening, but this means that he cannot simultaneously be at place Q across the continent, where even greater catastrophes may be occurring. What this do-gooder then needs is a moral principle that will tell him how his beneficence is to be distributed, since the supply is so small and the need so great. (2) More difficult still, many situations are not all black and white. This problem is circumvented in the film by making all characters and situations black or white: the villains have no redeeming qualities and the good guys have no disabling ones. (That way our hero doesn't have to think too much.) But what would he do in a situation in which he would have to balance X amount of good against Y amount of evil, involving an elaborate weighting process and possibly indecisive results? Would he, for example, protect a newspaper reporter's source of information against the courts by busting the reporter out of jail, or would he prevent at the last moment the murder that would have occurred because the newsman wouldn't reveal the murderer's name? In the real world, when one embarks on a career of moral busybodyism, he finds more situations that are 60-40 than 100-0.

For lack of anything better to do, such speculations and many others like them tend to float through one's mind while sitting through this mindless piece of jelly, **SUPERMAN**. The special effects are neat; Christopher Reeves is an engaging Clark Kent, and Brando isn't in it long enough for his solemnly intoned antics or laughable lines to ruin the film. (Gene Hackman comes off better as the arch-villain.) The shots of Middle West farm country are interesting, and the space-shenanigans are eye-popping if you haven't seen *Star Wars*. But the time-reversal sequence toward the end raises so many philosophical questions (for example, if something has already happened, how can anyone, even God, cause it *not to have happened*?) as to boggle the mind of someone who does not represent, as Clark Kent does, the resounding triumph of matter over mind.

—J. H.

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taxes

(Continued from p. 39.)

sified the struggle by putting his own personal tax returns to various constitutional tests. The IRS kept after him. In 1971 they charged him with "willful failure to file tax returns." He didn't let up. In 1972 came the famous "fleece-in" where two hapless sheep were sheared on the steps of the Federal Building in San Francisco, while a helicopter circled overhead towing a banner that read "Audit the IRS." That action was in protest against the IRS practice of arbitrarily withholding refunds due taxpayers. After the fleece-in news hit the national wires, the checks were quickly sent out, and the tactic was used no more.

In 1973 Klee came to trial on three counts for willful failure to file his own tax returns, and the IRS was finally able to win one. Klee immediately appealed. In 1974 he followed up his conviction by running for the Democratic nomination for the congressional seat in his district and won in every county (although he lost to the Republican incumbent in the general election). Soon after the election, on December 6, federal marshals swooped down and carted him off to prison. That was at the very beginning of the tax season. But on his birthday, January 28, persons unknown caused not one but two helicopters to circle the federal prison—Terminal Island, near Los Angeles, which was to hold the famous Barbara Hutchinson and other tax protestors—with banners proclaiming "Happy Birthday Oscar Klee" and the familiar "Audit the IRS."

On April 22—just after the *end* of the tax season—Klee was let out of prison. He immediately pounced in 1976 by running for and winning the Democratic nomination yet again for the congressional seat in his district (but once again lost to the incumbent). Today the patterns continue, even as I work with him in his Santa Rosa offices. Within two weeks of my arrival, two IRS agents from the "criminal investigation division" came into our offices demanding information. The office manager, herself a veteran of the IRS Wars, naturally told them to get lost.

They responded in typical fashion: within a couple of weeks fearful clients started calling us, telling of a letter they'd received from the "Chief, Criminal Investigation Division" of the IRS office in San Francisco. The letter arrived with a questionnaire to be filled out by the taxpayers —and it appears to be going to every one of Klee's clients.

What does the IRS letter say? Among other things, that "the Federal income tax liability of Oscar H. Klee and Marlene E. Klee, doing business as the Oscar Klee Tax Service, is under investigation for the years 1975, 1976 and 1977. Please answer all the questions on the attached questionnaire as completely as possible."

Predictably, Klee immediately responded with a counter-blast, a letter to all his clients pointing out: "You do not have to provide the IRS with any information that they request in a letter, or otherwise, unless they comply with the law (see attached letter)." The letter Klee attached was a copy of one to the IRS that began: "Please be informed that your recent letters requesting information from our clients are deceptive, contrary to law, unnecessary, and as such constitute undue harassment of both our clients and ourselves. Your letter and request was sent in violation of the Privacy Act of 1974 which was passed by Congress to prevent such abuses and harassment. . . . I am informing my clients that they are not required to succumb to your illegal requests or participate in your unwarranted fishing expeditions. . . . It would seem that the IRS after nearly 30 years of harassment would clean up its act and comply with the law instead of continually using illegal tactics in attempts to defeat opposition to such harassment."

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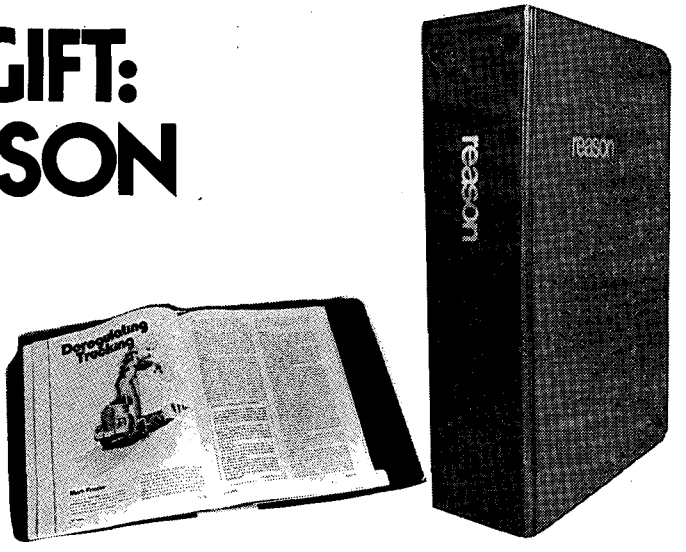

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"Aren't you even *worried*?" I anxiously asked Oscar one day as he bustled through the office.

"Not really," he replied. "They've been doing this same kind of thing for years now, and this is just a weak attempt to scare our clients."

"Why not calm down a little, and not tick them off so much," I suggested, wondering what drives a person to take on the most vicious and dangerous bureaucracy in America.

"Someone's got to do it," he replied. "If we don't take a stand now, and they're allowed to run roughshod over the law and the Constitution, pretty soon there'll be absolutely no chance at all for the working man and woman in this country."

To which I just have to say, in spite of my own trepidation: Amen.

—Tim Condon

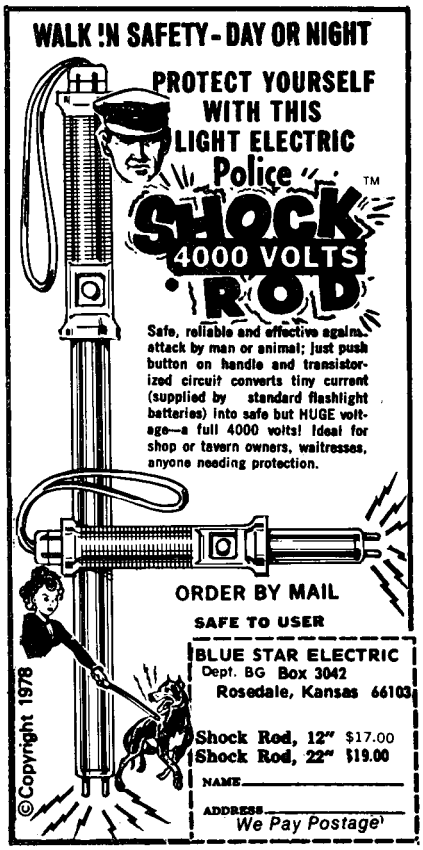
letters

(*Continued from p. 9.*)

laws of prohibition would be passed by some legislative body; the law would consist of judicial precedent....

The principle ignored by Mr. Schell in his second objection is one very fundamental to libertarian economic and social theory, and one which is also very simple to state: "All things being equal, rationality tends to work, and irrationality tends not to work." The "all things being equal" is the most important part of this principle. How can irrationality win out in the real world, where reality, by definition, must sooner or later catch up with it? And how can rationality lose, if reality, by definition, must ultimately vindicate it? The answer, of course, is *force*. If only *persuasion* and voluntary interaction are *allowed* among men, then rationality will always have an edge; it may not always be prevalent in a given area, it may be temporarily supplanted by fad or superstition (human beings are not, after all, perfect), but as long as men are free to think, experiment, and act as they please, rationality will tend towards dominance....

Mr. Schell mentions TV violence and pornography (and other "victimless crimes") as forces which might, in a libertarian society, "contribute to the erosion process of both sensitization and rationality." But surely this is an unwarranted conclusion. *Today*, in our present culture, with our state-controlled educational system, our state-regulated communications industry, and a populace generally brainwashed with the collectivist notions of personal irresponsibility and government omnipotence, it is easy to spot stupid and irrational trends, and conclude that freedom just won't work unless we *force* peo-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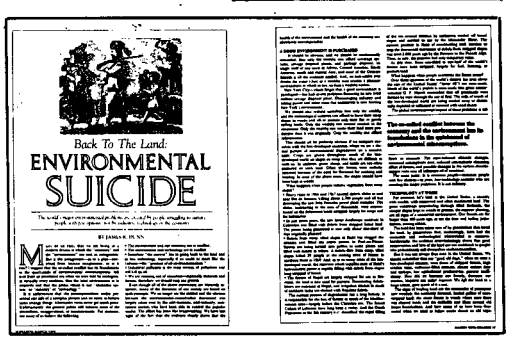

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ple to be rational, as if that would be possible....But in a libertarian society, without the coercive forces and philosophy previously mentioned, and in the midst of a vibrant, dynamic free marketplace of ideas and institutions, would TV violence or pornography be significant or ultimately influential? I think not....

Rationality does not need the protection of "preventive" laws. But in any society where such laws exist, irrational men will soon discover that what they could never accomplish through persuasion and demonstration, they *can* accomplish through the "preventive" machinery of the state.

Robert Tinney
Baton Rouge, LA

Energy Insanity

Mr. Kazmann and Ms. Smarr criticize Dr. Beckmann's support of nuclear power in a not very convincing way [Letters, February].

If Mr. Kazmann would disclose the full story which I'm sure he knows (or should know as a professional engineer), he would mention that the breeder reactor has no such limitation as to fuel. There is, right now, stored and neatly packaged, enough depleted uranium to furnish over 8,000 quads of energy, enough for a 100-year supply for the entire US at present rates of consumption in *total* energy, if used in the breeder reactor. Also, it is possible to recycle plutonium in the present thermal reactors. And besides all that, the *world* reserves of uranium are not as limited as Kazmann would have us believe.

As for Ms. Smarr, I challenge her to support her hypothesis that nuclear energy is not safe. Her argument on this point hinges on human error, but all plant designs have many levels of safeguards to prevent that. Their perfect safety record in well over 400 reactor years of US operation demonstrates that.

Ms. Smarr should do her homework on waste disposal and discover that the true waste (cesium 137 and strontium 90, half-life 30 years) in 600 years decays to a radioactivity level less than the uranium ore from which it came, and that with reprocessing the volume of this waste is tiny: even if *all* US electric generation were nuclear, in 350 years the volume of waste would be a cube 200 ft. on a side. This is easily vitrified into non-leachable ceramic, encased in stainless steel and concrete, and stored in salt domes, of which there are some 50,000 square miles in the US. Waste disposal is a political problem but not a technological one.

Decommissioning costs have indeed been taken into account. The cost would be $13-15 million in 1975 dollars with mothballing or entombment for 100 years followed by dismantlement and removal. This is less than 2 percent of what such a reactor designed in 1975 would cost to build. Even immediate dismantlement and removal would be at most $42 million in 1978 dollars, for a 1,000 MWe PWR reactor, which is about 0.2 mil per kilowatt hour.

Ms. Smarr should study Dr. Cohen's excellent works on plutonium dispersal and she would discover that due to its weight, plutonium dust settles rapidly, and dispersal so that people could breathe it (and develop lung cancer in 30-45 years) is next to impossible. Hundreds of tons of it were released by the post-war atmospheric bomb tests, and the lung cancer mortality has not risen in proportion.

To produce 80 quads of electric energy from dilute solar insolation would require 137,000 square miles of real estate in permanent shadow, vs. about 106 square miles for nuclear. Perhaps Ms. Smarr could address herself to the environmental impact of putting this much of the US —about 13 percent more than the state of New Mexico—into shadow. Even the Sierra Club has doubts about this one!

R. W. Johnson, P.E.
Ben Lomond, CA

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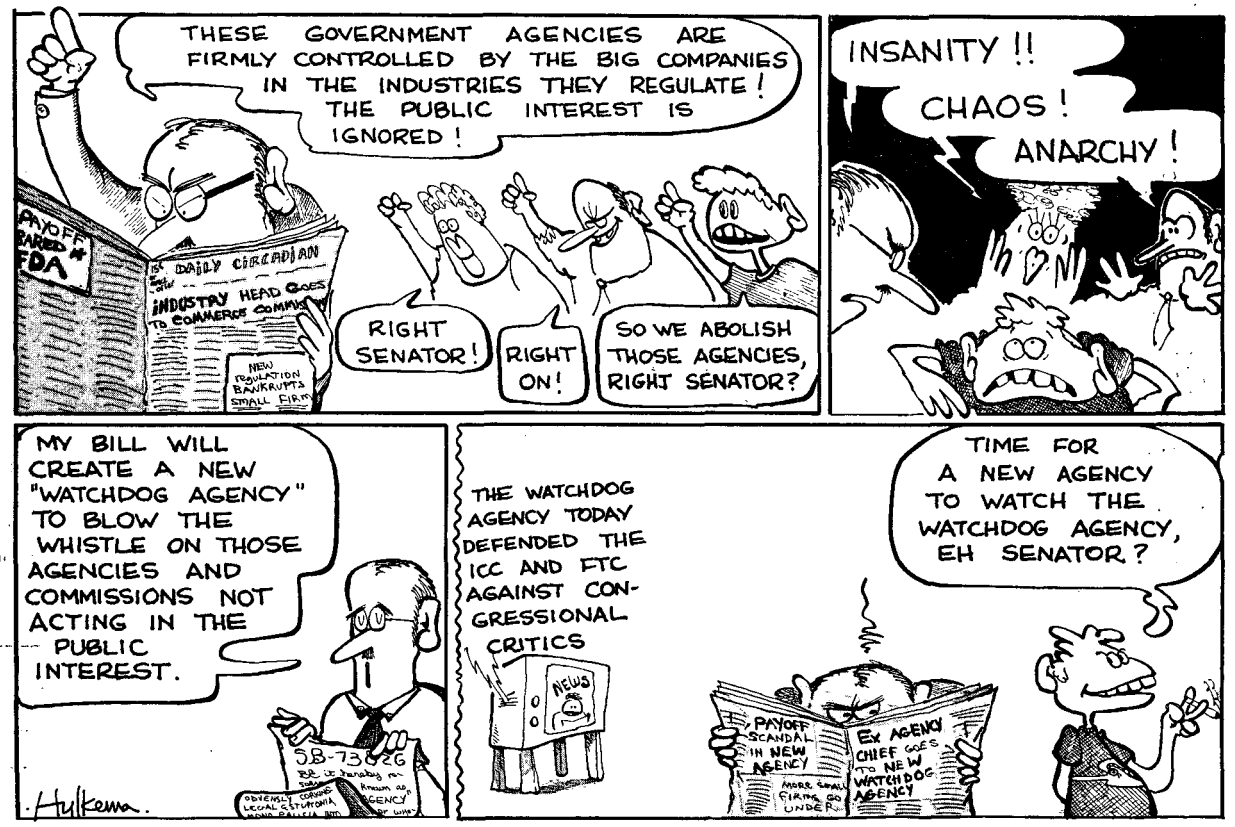
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Nathaniel Branden is the author of *The Psychology of Self-Esteem, Breaking Free,* and *The Disowned Self.* He is in private practice in Los Angeles, is Executive Director of the Biocentric Institute, offers training to psychologists, psychiatrists and other mental health professionals, and conducts INTENSIVES in major cities throughout the United States.

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Reason Magazine,
Dr. Cheri Adrian

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